NON-FISCAL POLICY ITEMS

ADMINISTRATION -- GENERAL AGENCY PROVISIONS

1. STATE AND LOCAL GOVERNMENT POLICY COORDINATION

Direct DOA to coordinate, to the extent possible, state policies governing the relationship between state and local governmental units (defined as political subdivisions of the state, special purpose districts, instrumentalities or corporations of these subdivisions and special districts and any combination of the foregoing) and attempt to make such policies as uniform as practicable. Authorize DOA to attempt to mediate disputes between local governmental units and state agencies (defined as all agencies created by law or by the Wisconsin Constitution, including the legislative and judicial branches, but excluding the state authorities) to the extent feasible.

Direct the Secretary of DOA to appoint a state-local government coordinator outside the classified service to undertake these activities, enumerate this position in the statutory listing of unclassified state positions and authorize the Secretary to set the salary of the coordinator. Convert 1.0 FTE undesignated base level GPR-funded classified position in DOA to 1.0 FTE unclassified position. Base level funding associated with this undesignated position would be available to support the costs of this new unclassified position.

2. STUDY OF STATE AGENCY PLAN REVIEWS OF NURSING HOMES, HOSPITALS AND RELATED FACILITIES

Direct the Department to conduct a study of the separate responsibilities of the Department of Health and Family Services and the Department of Commerce to review capital construction and remodeling plans of nursing homes, community-based residential facilities, hospitals and other medical facilities. Require the study to address the feasibility of centralizing these plan reviews under one of the agencies. Specify that the study shall be presented to the Governor and the Secretary of DOA by June 30, 2002.

Under current law, the Department of Health and Family Services must conduct plan reviews of all construction and remodeling of nursing homes and hospitals to ensure compliance with building code requirements that are otherwise regulated by the Department of Commerce and may conduct such plan reviews of community-based residential facilities. The Department of Commerce regulates the construction, repair and maintenance of public

buildings and the design, construction and alteration of medical facilities to ensure that they are accessible to persons with disabilities.

ADMINISTRATION -- AGENCY SERVICES

3. STATE PROCUREMENT LAW MODIFICATIONS

Modify the statutes related to state procurement laws as follows:

Subscription Service. Authorize DOA to permit prospective vendors to provide product or service information through the current law vendor subscription service. Specify that DOA may prescribe fees or establish fees through a competitive process for the use of the service. Specify that any fee collected by DOA would be deposited to the existing segregated VendorNet Fund. The current subscription service provides potential vendors with information of interest concerning state procurement opportunities. If DOA provides the service, the Department is required to assist small businesses that are prospective vendors in accessing and using the service by providing facilities or services to the businesses. DOA may currently charge a fee for the subscription service and is required to prescribe the amount of any fee by rule.

Bidders List. Specify that any agency to which DOA delegates purchasing authority may maintain a bidders list only if authorized under the authority delegated from the Department. Under current law, DOA or any agency to which DOA delegates purchasing authority may maintain a bidders list. Current law specifies that a bidders list include the names and addresses of all persons who request to be notified of bids or competitive sealed proposals (with estimated costs exceeding $25,000) that are solicited by DOA or another agency for the procurement of materials, supplies, equipment or contractual services. Any list maintained by DOA may include the names and addresses of any person who requests to be notified of bids or competitive sealed proposals to be solicited by any agency. DOA or another agency is required to notify each person on its list of all requests for bids or competitive sealed proposals by DOA or the agency. Current law specifies that DOA or an agency may remove any person from its list for cause.

Procurement Solicitation by Electronic Auction. Specify that when the estimated procurement costs exceed $25,000, DOA is required to invite bids to be submitted. Current law would continue to authorize the Governor or the Secretary of DOA to waive this requirement, if it was deemed to be in the state's best interest to do so. Specify that DOA either solicit sealed bids to be opened publicly at a specified date and time, or solicit bidding by auction to be conducted electronically at a specified date and time. Whenever bids are invited, require that due notice inviting bids be published as a Class 2 notice (current law) or posted on the internet at a site determined or approved by DOA (added by the bill). Under the bill, the bid opening or

auction must occur at least seven days after the date of the last insertion of the notice or at least seven days after the date of posting on the internet. Require that any notice specify whether sealed bids are invited or bids will be accepted by auction, and give a clear description of the materials, supplies, equipment or contractual services to be purchased, the amount of any bond, share draft, check or other draft to be submitted as surety with the bid or prior to the auction, and the date and time that the public opening or the auction will be held. Specify that if bids are solicited by auction, the award may be made in accordance with simplified competitive procedures established by DOA for such transactions.

Under current law, a Class 2 notice requires that a notice be inserted into a newspaper or publication at least twice. Insertion of a notice means the publication of a legal notice once each week for consecutive weeks, the last of which must be at least one week before the bids are opened. Under current law, when the estimated cost of a bid exceeds $25,000, DOA must provide due notice inviting bids by publishing a Class 2 notice. Further, the bids may not be opened until at least seven days from the last day of publication. The official advertisement must give a clear description of the materials, supplies, equipment or service to be purchased, the amount of the bond, share draft, check or other draft to be submitted as surety with the bid and the date of public opening.

Specify that when the estimated cost exceeds $25,000, DOA may invite competitive sealed proposals (if sealed bids are not practicable or advantageous) by publishing a Class 2 notice or by posting notice on the internet at a site determined or approved by the Department. Specify that the notice must describe the materials, supplies, equipment, or contractual services to be purchased, the intent to make the procurement by solicitation of proposals rather than by solicitation of bids, any requirement for surety and the date the proposals will be opened, which must be at least seven days after the date of the last insertion of the notice or at least seven days after the date of posting on the internet.

Under current law, when the estimated procurement cost exceeds $25,000, DOA is required to publish a Class 2 notice inviting competitive sealed proposals. The advertisement must describe the materials, supplies, equipment or service to be purchased, the intent to solicit proposals rather than bids, any requirement for surety and the date the proposals will be opened, which is required to be at least seven days after the date of the last insertion of the notice.

Require that DOA either publish a Class 2 notice (current law) or post a notice on the internet at a site determined or approved by DOA (added by the bill) when the Secretary of DOA, with the approval of the Governor, waives the procurement laws and allows a purchase from a private source that is expected to exceed $25,000. Specify that the date on which the contract or purchase is made must be at least seven days after the last date of insertion of a notice or the date of posting on the internet.

Electronic Procurement and Commerce Activities. Create a nonstatutory provision requiring DOA to report to the Governor and the Co-chairs of the Joint Committee on Finance concerning

the status of the electronic procurement and commerce activities of DOA. Require that DOA include in the report an assessment of the costs and benefits of those activities for the 2002-03 fiscal year and an assessment of the effectiveness of state executive branch agencies in increasing the volume of those activities.

ADMINISTRATION -- ATTACHED PROGRAMS

4. ELIMINATION OF THE COUNCIL ON HEALTH CARE FRAUD AND ABUSE

Repeal obsolete language establishing a 15-member Council on Health Care Fraud and Abuse, attached administratively to the Department. The Council was created by 1995 Wisconsin Act 442 to study all aspects of health care fraud and abuse and to develop strategies to combat such activities by health care providers, insurers and consumers. The Act 442 language establishing the Council also provided for a December 31, 2000, sunset of the body and its duties.

AGRICULTURE, TRADE AND CONSUMER PROTECTION -- DEPARTMENTWIDE AND RESOURCE MANAGEMENT

5. FARMLAND PRESERVATION LIENS AND CONVERSION FEES

Prohibit DATCP from relinquishing a farmland preservation agreement or releasing land from an agreement prior to termination of the agreement until the owner pays $50 per acre for the land that is no longer covered by the agreement (except for certain cases for which no lien or payback is required under current law).

Require the owner to pay $60 for each acre of land rezoned out of exclusive agricultural zoning or granted a special exception or conditional use permit for a use that is not agricultural as a condition of approval of the rezone petition or special exception or conditional use permit. Require the payment be made by the county or municipality, instead of the landowner, if a rezoning occurs solely as a result of an action initiated by the county or municipality.

Delete the current law requirement that any land relinquished or released from certain farmland preservation agreements or transition agreements, or that is rezoned or is granted an

exception to exclusive agricultural zoning is subject to a lien for the total amount of all credits received by all owners of such lands during the last 10 years that the land was eligible for such credit.

Payments made to DATCP under these provisions are deposited in the general fund. DATCP collected $96,800 in farmland preservation program related fees in 1999-00. No estimate of revenues under the bill is made. [See "Shared Revenue and Tax Relief -- Property Tax Credits" for additional information on these provisions.]

6. DRAINAGE DISTRICT PERMITTING

Provide that a drainage district drain used primarily for agricultural purposes (including aquaculture) be specified as not navigable unless a United States Geological Survey map or other equally reliable scientific evidence shows that the drain was a navigable stream before it became a district drain. Allow county drainage boards to place structures or deposits in a district drain for primarily agricultural purposes without a Department of Natural Resources (DNR) permit if, after consulting with DNR, DATCP either specifically approves the placement, or the structure or deposit is required by DATCP rule to conform to approved drain specifications, regardless of whether the district drain has been designated a class 1 trout stream. Further, allow county drainage boards to clean material from a district drain for agricultural purposes without a DNR permit as long as the removal is required by DATCP rule, after consulting with DNR, to conform to drain specifications.

Delete the requirement that a drainage district must have a permit to acquire or remove any dam or obstruction from navigable waters or to clean out, deepen, widen or straighten any navigable stream. Eliminating some permit requirements for drainage boards would decrease fee revenues (and associated workload) to DNR. Unless a drainage district is dissolved, require DNR to consult with DATCP (as well as drainage commissioners under current law) on the operation and maintenance of dams. While DNR is required to give careful consideration to suggestions, DNR retains final decision authority on the operation and maintenance of dams (including dams in the Duck Creek Drainage District only if it fails to operate according to statutes).

If the Outagamie Drainage District No. 6 (Duck Creek Drainage District) fails to operate, repair and maintain dams and other structures in district drains in accordance with DATCP rules and Chapter 88 (Drainage of Lands) of the statutes, require DNR to consult with DATCP and the drainage commissioners on the operation and maintenance of the dams, or if there are no commissioners, with DATCP and any committee appointed by the county board to represent the county's interest.

7. COMMERCIAL FEED VIOLATION PENALTIES

Provide authority for DATCP or a district attorney to recover a civil forfeiture of between $100 and $5,000 and allow (rather than require under current law) a person to be fined up to $200 or imprisoned up to six month, or both, for criminal violations of state commercial feed regulations, including orders and DATCP rules.

8. EXPAND DATCP PEST ABATEMENT AUTHORITY

Expand the Department's pest abatement authority to include all areas of the state (by deleting language limiting DATCP authority to agricultural lands and agricultural business premises).

Under current law, DATCP can order a property owner to treat, remove or destroy any infested or infected plant, host plant or other pest-harboring material on any agricultural land or agricultural business premises that is infested by a pest (as broadly defined by DATCP rule), without awarding damages to the owner. Further, if the property owner fails to treat an agricultural area, the Department can treat the premises and charge the owner for the expense.

9. DELETE REPORTING REQUIREMENTS

Delete the requirement that DATCP annually submit to the Legislature a report that summarizes information received from foreign persons who acquire agricultural land in Wisconsin. Further, delete the obsolete requirement that DATCP review the effectiveness of reduction of toxics in packaging requirements and report the results to the Governor and the Legislature before June 1, 1993.

10. ELIMINATE THE WORLD DAIRY CENTER AUTHORITY

Eliminate the World Dairy Center Authority. The Authority was created in 1991 Act 16 to establish a Wisconsin center for the national and international dairy industry. The Authority is no longer active.

AGRICULTURE, TRADE AND CONSUMER PROTECTION -- TRADE AND CONSUMER PROTECTION

11. PRODUCT SAFETY AND HAZARDOUS SUBSTANCE VIOLATIONS PENALTIES

Create a fine of up to $200 or imprisonment in the county jail for up to six months or both and authorize DATCP or a district attorney to recover a civil forfeiture of between $100 and $5,000 for violating state product safety regulations, including orders and DATCP administrative rules. Further, authorize DATCP or a district attorney to recover a civil forfeiture of between $100 and $5,000 for violating state hazardous substance regulations, including orders and DATCP administrative rules. Further, authorize a person to be fined up to $5,000 or imprisoned up to a year, or both, for violating an order or DATCP rules (in addition to statutory violations under current law) related to hazardous substance violations.

12. TELEMARKETING IDENTIFICATION REQUIREMENTS

As of the first day of the third month following the effective date of the bill, require an employee of a professional telemarketer (a business with employees whose primary duty is to make telephone solicitations) to disclose the employee's name, the identity of the person selling the property, goods or services, and the purpose of the call when making a telephone solicitation. Further, prohibit such an employee from making a telephone solicitation to a person who requested not to receive solicitations from the telemarketer. In addition, prohibit an employee of a professional telemarketer from blocking their telephone number or associated name from a person who uses caller identification. Allow DATCP, or any district attorney upon informing DATCP, to investigate violations of these provisions and to bring an action for temporary or permanent injunctive or other relief. Further, set a forfeiture of not more than $500 for a professional telemarketer for each employee violation and subject the professional telemarketer to a supplemental forfeiture of up to $10,000 if they knew or should have known that the customer called was an elderly or disabled person, or if the violation caused economic, emotional or physical damage to one of these persons. Provide that the above provisions apply to any intrastate or interstate call made to Wisconsin.

Further, as of the first day of the third month following the effective date of the bill, prohibit an employee of a professional telemarketer (rather than any person under current law) from using an electronically prerecorded message in a telephone solicitation without the consent of the person called. Further, allow DATCP, or any district attorney upon informing DATCP, to investigate such a violation and to bring an action for injunctive or other relief.

13. PAWNBROKER LICENSING FORMS

Delete the requirement that DATCP develop and provide to counties and municipalities, at no charge, license applications and other business forms required to be filled out by pawnbrokers and secondhand article dealers. Instead, allow DATCP to develop sample applications and forms for counties to either revise or reproduce and distribute to pawnbrokers and secondhand article dealers.

14. CREATE AN AGRICULTURAL PRODUCER SECURITY PROGRAM

	Funding	Positions
PR-REV	- $1,338,700	
SEG REV	4,923,000	
PR	- $1,416,600	- 12.12
SEG	6,116,600	12.12
Total	$4,700,000	0.00

Delete $588,100 PR and provide $2,938,100 SEG in 2001-02, delete $828,500 PR and provide $3,178,500 SEG in 2002-03 and convert 12.12 PR positions to SEG to consolidate current individual vegetable processor, dairy plant operator, grain dealer and warehouse keeper programs. Further, convert security requirements from the consolidated program to an insurance pool funded by industry assessments that would be deposited into a new SEG agricultural producer security (APS) fund. The APS fund would consist of all fees, surcharges, assessments, reimbursements and proceeds of surety bonds received by DATCP for the APS program. Establish formula-based fees for various commodities. [For a complete summary of related provisions, see "Agriculture, Trade and Consumer Protection -- Trade and Consumer Protection."]

COMMERCE -- DEPARTMENTWIDE AND ECONOMIC DEVELOPMENT

15. REGULATORY FLEXIBILITY COMMITTEE

Create a regulatory flexibility committee consisting of 10 members appointed by the Governor. At least one member would be required to be appointed from a list of nominees submitted by the Wisconsin chapter of the National Federation of Independent Businesses. At least one member would be required to be appointed from a list of nominees submitted by Wisconsin Manufacturers and Commerce. The Governor would designate one of the members of the committee as chairperson and the chairperson would set the date for the first meeting. A majority of the committee would constitute a quorum for doing business. Committee members would be reimbursed for actual and necessary expenses that were incurred while performing their duties as Committee members. Commerce would be required to provide staff support and any other assistance necessary for the Committee to complete its work.

The Committee would be required to submit a report to the Governor and the appropriate standing committees of the Legislature. The report could include recommendations for legislation and would be required to include discussions of all of the following:

a. How to require an agency to consider the direct and indirect impact of rules proposed by the agency.

b. Whether judicial enforcement of statutory provisions for administrative rule making considerations for small business would be appropriate or sufficient.

c. What provisions would be available or needed to enable a business to challenge an agency's regulatory flexibility analysis prepared under state law.

d. What additional authority would be appropriate and necessary for the Joint Committee for Review of Administrative Rules to suspend or modify a proposed or existing agency rule.

e. What action would need to be taken by what agencies to develop a no-fault audit program and compliance assistance program.

f. What grace periods would be appropriate during which a business could correct a rule or statutory violation before being assessed a fine or forfeiture.

g. Whether an agency should consider a small business's ability to pay when assessing a fine or forfeiture against that business.

h. What action would need to be taken, and by what agencies, to develop a program that allowed a business to pay a fine or forfeiture in installments.

The regulatory flexibility committee would cease to exist at the earlier of September 1, 2002 or when the report was submitted to the Legislature.

COMMERCE -- BUILDING AND ENVIRONMENTAL REGULATION

16. ELIMINATE PECFA COUNCIL

Eliminate the PECFA Council. The Council is statutorily required to advise the Secretaries of Commerce and DNR on implementation of the PECFA program and is required to include representatives of petroleum product transporters, manufacturers, suppliers, retailers, wholesalers, hydrogeologists, environmental scientists, consultants, contractors and engineers. The Council has not met since December, 1996. Since then, some of the Council

members have served as members of code advisory committees created by Commerce to develop administrative rule changes.

17. GREEN TIER AND ENVIRONMENTAL MANAGEMENT SYSTEM GRANTS

SEG	$300,000

Provide $100,000 in 2001-02 and $200,000 in 2002-03 from the segregated environmental fund in a biennial appropriation to create a green tier and environmental management system grant program within the Environmental Regulatory Services Division. Direct Commerce to provide information about environmental management systems to potential participants in the green tier program created in DNR under the bill. (See "DNR -- Air, Waste and Contaminated Land" for more information.) The green tier program is intended to improve the environmental performance of public and private entities through the provision of incentives.

Direct Commerce to provide two types of grants under the program: (a) grants to nongovernmental organizations to help those organizations develop the ability to participate as interested persons in the DNR green tier program, including the allocation of at least $150,000 in the 2001-03 biennium of the available $300,000; and (b) grants to assist persons to develop environmental management systems. Under the bill, "environmental management system" would mean an organized set of procedures to evaluate environmental performance and to achieve measurable or noticeable improvements in that environmental performance through planning and changes in operations.

18. FIRE SAFETY AND FIRE DUES GRANT PROGRAMS

Make several changes related to fire safety programs and the fire dues grant program. Create a fire safety and injury prevention education program. The changes include the following.

Definition of Fire Department. Create a definition of fire department for the fire safety programs and fire dues program administered by Commerce. "Fire department" would include any organization that is permitted under current law to provide fire protection services to a municipality, including: (a) a fire company under Chapter 213; (b) a department established by a city, village or town; (c) a joint fire department; and (d) a person that contracts to provide fire protection services to a town.

Fire Safety Programs. Make the following changes in local and state fire safety programs.

a. Require each fire department, rather than Commerce, to maintain a record of all fires occurring within the fire department's territory.

b. Provide that Commerce has jurisdiction and supervision over all buildings, structures and premises in the state for administration of all laws related to fire inspections, fire prevention, fire detection and fire suppression. Currently, the Department has general jurisdiction over places of employment, public buildings and certain residential buildings.

c. Authorize Commerce to enter a private dwelling at any reasonable time to verify the proper installation of smoke detectors and fire suppression devices, but direct that the Department may do so only at the request of the owner or renter.

Fire Dues Grant Program. Currently, insurance companies pay to the state fire dues equal to 2% of the amount of all Wisconsin based premiums paid to the company for insurance against loss by fire. Commerce distributes fire dues revenues to eligible fire departments based on the equalized valuation of real property improvements within each eligible municipality, except that an eligible municipality may not receive an amount that is less than the municipality received in 1979. Fire dues are also used for Commerce administration of local fire prevention programs and fire dues payments with 7.6 positions and for firefighter training programs administered by the Wisconsin Technical College System with 3.0 positions. The bill includes the following components:

a. Apply fire dues program eligibility requirements to a municipality rather than to a fire department. To be eligible for a fire dues grant, a municipality (city, village or town) would have to receive services from a fire department.

b. Allow a municipal fire department to be eligible for a fire dues grant if it provides 95%, instead of 100% currently, of the required fire inspections. Currently, the chief of every fire department must provide a fire inspection for every public building and place of employment in the fire department's territory. Currently and under the bill, these inspections must generally be performed at least once every six months, except in the City of Milwaukee, which establishes its own inspection schedule.

c. Specify that to be eligible for a fire dues grant, the municipality must receive services from a fire department that provides a training program prescribed by Commerce rule, to train fire fighters and inspectors who provide fire suppression services, fire prevention inspections, or public education with regard to safety. This would replace a general requirement that the fire department provide a training program prescribed by Commerce rule.

d. Exclude a mutual aid agreement relating to fire protection from the type of contract that a municipality may use to satisfy eligibility requirements. If a municipality enters into a mutual aid agreement, it may still be eligible for a fire dues grant if it satisfies all applicable eligibility requirements. Currently, a municipality is eligible for a grant if the municipality receives fire protection services under a contract that is sufficient to provide fire protection to the entire municipality.

e. Require if a city, village or town uses the services of a volunteer fire department to be eligible for fire dues, the municipality must maintain or contract with a volunteer fire department that has sufficient personnel ready for service at all times and that holds a meeting at least once each month. Currently, a municipality that uses the services of a volunteer fire department must maintain a voluntary fire department that holds a meeting at least once each month.

f. Direct that the Commissioner of Insurance shall, upon request, transmit to Commerce, instead of the State Treasurer currently, a list of the names of all insurers paying fire dues and the amount paid by each listed insurer.

Fire Safety and Injury Prevention Education Program. Create a fire safety and injury prevention education program within Commerce to educate the public regarding fire prevention, fire detection, fire suppression, injury prevention and related matters. Currently, the Department is required to annually provide to the Department of Public Instruction an outline of a course of study in fire prevention for use in public schools, but the Department is not authorized to directly provide public education regarding fire safety. Authorize the Department to make grants to support the program. The bill does not provide funds or an appropriation for the program. Currently, the Department is generally authorized to receive moneys as gifts or grants to carry out the purposes for which made.

19. INSPECTION OF MANUFACTURED DWELLINGS

Make several changes related to the inspection of manufactured buildings as dwellings, including:

a. Delete the requirement that a municipality must obtain Commerce approval before enacting an ordinance to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality.

b. Require that all dwellings that are manufactured buildings be inspected. Currently, cities, villages or towns with a population of 2,500 or less ("small municipalities") are exempt from administration of the manufactured building code. Require that a small municipality take one of the following actions related to administration of the manufactured building code for dwellings: (1) enact an ordinance to enforce the code, either independently or jointly with another municipality; (2) adopt a resolution requesting the county to administer the code in the municipality; (3) adopt a resolution not to do either (1) or (2), in which case the small municipality would be exempt from administration of the code; or (4) take no action, in which case Commerce would be required to enforce the code in the municipality.

c. In municipalities where Commerce performs inspections under the manufactured building code for dwellings, authorize the Department to perform the inspections directly or to contract with a third party for the inspections. Delete the current requirement that a

municipality pay for any manufactured building code inspections that are provided by Commerce under contract. Retain the current requirement that the Department shall establish by rule a schedule of fees sufficient to defray the cost of performing manufactured building code inspections in a municipality.

d. Specify that a person would not be required to obtain a building permit for installation of a manufactured building in a municipality if the installation begins before the effective date of the biennial budget act, and if at the time the installation begins, the municipality has not: (1) enacted an ordinance requiring a building permit for the installation, (2) requested a county to provide building permit services, or (3) requested Commerce to provide building permit services.

20. INSPECTION OF ONE- AND TWO-FAMILY DWELLINGS

In municipalities where Commerce performs inspections under the one- and two-family dwelling code, authorize the Department to perform the inspections directly or to contract with a third party for the inspections. Delete the current requirement that a municipality pay for any one- and two-family dwelling inspections that are provided by Commerce under contract. Retain the current requirement that Commerce establish by rule a schedule of fees sufficient to defray the cost of performing one- and two-family dwelling code inspections in a municipality.

21. UNIFORM DWELLING CODE COUNCIL

Add one member who represents remodeling contractors to the Dwelling Code Council. The member would have an initial term expiring on July 1, 2004. The Council is attached to the Department of Commerce and reviews the standards and administrative rules for one- and two-family dwellings. The current 17 members are appointed by the Governor and approved by the Senate, and include four representatives of building trade labor organizations, four local government building inspectors, two building contractors who construct one- and two-family homes, two manufacturers or installers of manufactured homes, an architect, engineer or designer of one- and two-family homes, two representatives of the construction material supply industry and two representatives of the public, one of whom represents persons with disabilities.

22. CONDITIONAL MEDICAL PAROLE AND EXTENDED SUPERVISION

Authorize the Secretary of the Department of Corrections to grant an inmate conditional medical parole or conditional medical extended supervision.

Specify that for inmates sentenced to prison for crimes committed before December 31, 1999, other than those sentenced to life imprisonment, the Secretary may grant a conditional medical parole if all the following apply: (a) the warden of the correctional institution in which the inmate is confined makes a request to the Secretary that the inmate be released on conditional medical parole; (b) the warden provides the Secretary with the inmate's age, offense for which committed, medical condition, health care needs, security classification, potential risk for violence, and appropriate level of community supervision and possible alternative community placements; (c) the inmate is seriously ill or terminally ill and the Secretary determines that the release of the inmate would not pose a risk of harm to any person; (d) the Secretary determines that the inmate's health care costs are likely to be paid by the federal Medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate; and (e) Corrections provides victim notification as required under current law. Specify that an offender's conditional medical parole may be revoked if the offender violates any condition or rule of the conditional medical parole. Require Corrections to promulgate rules for the conditional medical parole program, including eligibility criteria, procedures for the Secretary to use in deciding whether to grant a prisoner a conditional medical parole, procedures to follow when revoking a conditional medical parole, and conditions of the conditional medical parole. Specify that an inmate released on conditional medical parole is subject to all conditions and rules of parole until the expiration of the sentence or until he or she is discharged by Corrections.

Specify that for inmates sentenced to prison under a bifurcated sentence, the Secretary of the Department of Corrections may reduce the term of confinement and release the inmate on conditional medical extended supervision if all the following apply: (a) the warden of the correctional institution in which the inmate is confined makes a request to the Secretary that the inmate be released on conditional medical extended supervision; (b) the warden provides the Secretary with the inmate's age, offense for which committed, medical condition, health care needs, security classification, potential risk for violence, and appropriate level of community supervision and possible alternative community placements; (c) the inmate is seriously ill or terminally ill and the Secretary determines that the release of the inmate would not pose a risk of harm to any person: (d) the Secretary determines that the inmate's health care costs are likely to be paid by the federal Medicare program, a veteran's program, medical assistance, or another federal or state medical program, or by the inmate; and (e) Corrections provides victim notification as required under current law. Specify that an inmate released on conditional medical extended supervision will have his or her period of extended supervision increased by

the amount that his or her term of confinement is reduced. Specify that an offender's conditional medical extended supervision may be revoked if the offender violates a condition or rule of the conditional medical extended supervision. Require Corrections to promulgate rules for the conditional medical extended supervision program, including eligibility criteria, procedures for the Secretary to use in deciding whether to grant a prisoner conditional medical extended supervision, procedures to follow when revoking a conditional medical extended supervision, and conditions of the conditional medical extended supervision.

Under current law, Corrections is required to administer parole, extended supervision and probation matters, except that the decision to grant or deny parole to inmates is made by the Parole Commission and the decision to revoke probation, extended supervision or parole in cases in which there is no waiver of the right to a hearing is made by the Division of Hearings and Appeals in the Department of Administration. Corrections may not discharge a person serving a bifurcated sentence from supervision. The Secretary of the Department of Corrections may, however, under certain circumstances, grant special action parole releases for inmates sentenced for an offenses committed before December 31, 1999.

23. CHANGE OBSOLETE TERMINOLOGY

Delete the word "penitentiary" and substitute the term "correctional institution" in connection with the naming and listing of state prisons for the correctional facilities in Waupun, Green Bay, Portage, Oshkosh, Fox Lake, Taycheedah, Plymouth, Sturtevant, and Racine. Change the terminology from state prisons "defined" to state prisons "listed."

EDUCATIONAL COMMUNICATIONS BOARD

24. FUND-RAISING CORPORATION

Modify current law that authorizes ECB to organize and maintain a nonstock, nonprofit corporation to describe the corporation as a fund-raising corporation.

25. ELECTION LAW CHANGES

	Funding	Positions
GPR	$179,300	1.00

Provide $37,500 in 2001-02 and $141,800 in 2002-03 and 1.0 position annually for an election administration reform initiative. Funding under the bill would be provided as follows: (a) $37,500 in 2001-02 and $41,800 in 2002-03 for 1.0 elections specialist position to assist in the implementation and oversight of the election law changes; (b) $70,000 in 2002-03 for a grant program to assist counties and municipalities with the costs associated with maintaining a new elector registration list; and (c) $30,000 in 2002-03 for a newly-created election observer training program. The statutory changes under the bill, along with any associated funding, would be as follows:

a. Photo Identification Requirements

1. Voter Identification At Time of Registration. Under current law, any qualified elector (eligible voter) of a municipality where registration is required who is not registered to vote in the municipality is eligible to vote at the election if: (a) he or she delivers to the municipal clerk a registration form executed by the elector; or (b) if the person cannot obtain a registration form, the person delivers a signed statement containing all of the information required on the registration form. When a person registers to vote in person prior to 5 p.m. of the second Wednesday preceding the election, there is no current statutory requirement that identification be presented at the time of registration. For persons registering in person after that time (late registrants or persons registering on election day), under current law, the person must present acceptable proof of residence, which may be: (a) a driver's license; (b) an identification card issued by the Department of Transportation; (c) any other official identification card or license issued by a Wisconsin governmental body or unit or by an employer in the normal course of business, but not including a business card; (d) a credit card or plate; (e) a library card; (f) a check-cashing or courtesy card issued by a merchant; (g) a real estate tax bill or receipt for the current year or the year preceding the date of the election; (h) a residential lease which is effective for a period that includes election day; (i) a university, college or technical institute fee card or identification card; (j) an airplane pilot's license; or (k) a gas, electric or telephone service statement for the period commencing not earlier than 90 days before election day. If no proof is presented, one other elector of the municipality, who must provide acceptable proof of residence, must corroborate the required information. Current law also provides that a person who has been a state resident for less than 10 days before a presidential election (new state resident) may apply for a ballot to vote in the presidential and vice-presidential races only, which must be accompanied by a signed and sworn affidavit that the person is a legal resident of Wisconsin.

The bill would require persons registering to vote in person under late registration procedures, persons registering to vote on election day, persons who claim to be registered but whose name does not appear on the registration list and new residents applying in person for a ballot to vote in the presidential and vice-presidential races only to present preferred identification or, if the person was unable to present preferred identification, present alternate identification. If the person was unable to present preferred or alternate identification, the person would be required to present an identification card that contains the name and photograph of the person and an identification number. For late registrants, election day registrants and persons who claim to be registered but whose names do not appear on the registration list, if the identification presented was not acceptable proof of residence (as defined under current law, above), the person would also be required to present acceptable proof of residence. If the person was unable to present any such identification or acceptable proof of residence, the required information could be corroborated by a signed statement of an elector of the municipality who had not, during that day, corroborated the registration information of more than one other elector. The corroborating person's statement would need to contain the corroborating person's current street address, and the corroborating person would be required to provide identification in the same manner as if the corroborating person were registering.

The bill would provide the following definitions for preferred and alternate identification:

(a) "Preferred identification," when used in reference to any individual, would mean a valid operator's license that contains the photograph and current street address of the individual or a valid identification card issued by the Department of Transportation that contains the street address of the individual.

(b) "Alternate identification," when used in reference to any individual, would mean any identification card other than preferred identification that contains the photograph and current street address of the individual.

For new residents applying in person to vote in the presidential and vice-presidential election, the municipal clerk would be required to record on the application form of any person unable to present preferred or alternate identification, the type of identification the person was able to present, if any, along with the identifying number contained in that identification. The clerk would be required to verify that the name and address on the identification provided or corroborated were the same as the name and address on the application and would be required to verify that the photograph reasonably resembled the person. If the identification card was not preferred or alternate identification or if it contained an address different from that on the application, the clerk would be required to verify that the name and identifying number on the identification card were the same as the person's name on the application and the identifying number of any identification card that the person's application indicated he or she was able to present. If the person's application did not indicate that he or she was able to present an identification card or if the identifying number on the identification card was different from the identifying number indicated in the application, the clerk would be required to record the type of identification and the identifying number contained in that identification.

For late registrants and election day registrants, the municipal clerk, or county clerk if designated by the town clerk, or inspector on election day would be required to include on the certificate to vote the name and address of the elector and, if the elector was unable to present preferred or alternate identification, indicate the type of identification, if any, the person was able to present and the identifying number contained in that identification.

2. Voter Identification at the Polling Place. Under current law, except for victims of domestic abuse who obtain a confidential listing, before being allowed to vote, a person must state his or her full name and address. Under the bill (except for new residents obtaining a ballot to vote in the presidential and vice-presidential races, election day registrants, persons who claim to be registered but whose names do not appear on the registration list and victims of domestic abuse who obtain a confidential listing), each person would be required to state his or her full name and address and also be required to present preferred identification, or if the person was unable to present preferred identification, alternate identification. If the person was unable to present preferred or alternate identification, the person would be required to present any identification card that contained the name and photograph of the person and an identifying number. If a person was unable to present any such identification, the person's identity and address could be corroborated by a signed statement of an elector of the municipality who had not, during that day, corroborated the identity and address of more than one other person. The corroborating person's statement would be required to contain the corroborating person's current street address, and the corroborating person would be required to provide identification in the same manner as if the corroborating person were attempting to vote.

Elections officials would be required to verify that the name and address on the identification or corroborated were the same as the person's name and address on the poll list and would be required to verify that the photograph reasonably resembled the person.

If the person presented an identification card that was not preferred or alternate identification or that contained an address different from that on the poll list, the official would be required to verify that the name and identifying number on the identification card were the same as the person's name on the poll list and the identifying number on any identification card that the person's registration indicated he or she was able to present. If the person's registration did not indicate that he or she was able to present an identification card or if the identifying number on the identification card was different from the identifying number indicated in the person's registration, the officials would be required to enter on the poll list, after the name of the person, the type of identification and the identifying number contained in the identification.

Any person who was unable to present the above identification or have his or her identity and address corroborated would not be permitted to vote.

b. Statewide Registration of Voters (Electors)

1. Every Municipality Required to Register Electors. Under current law, every municipality over 5,000 in population must keep a registration list consisting of all currently registered electors. Under the bill, all municipalities would be required to register electors for all elections, and every municipal clerk or board of election commissioners of each municipality would be required to prepare and maintain the registration list, as described below.

Under current law, in municipalities without registration, election officials must enter each name and address on a poll list in the same order as the votes are cast, or the municipal clerk can maintain a poll list consisting of the full name and address of electors compiled from previous elections (domestic abuse victims with a confidential listing may use their identification cards in lieu of providing their full names and addresses). Election officials are required to keep separate lists for overseas voters and those voters strictly being allowed to vote for president and vice president. Poll lists in municipalities without registration must be kept on forms or in an electronic format prescribed by the Elections Board to be substantially similar to the standard registration list forms used in municipalities where registration is required. With the bill's requirement that all municipalities be required to register voters, the provisions regarding municipalities without registration requirements would be repealed.

2. Official Statewide Registration List. Under the bill, the Elections Board would be required to compile and maintain electronically an official statewide registration list. Except for victims of domestic abuse who obtain a confidential listing, the list would be required to contain the name and address of each registered elector in the state and such other information as the Board would prescribe by rule. The list would be required to be open to public inspection and electronically accessible by any person as follows: by name and in alphabetical order of the electors' names for the entire state and for each county, municipality, ward, and combination of wards authorized by statute.

No person other than the Elections Board or an election official authorized by a municipal clerk would be allowed to make a change to the list. The list would be required to be designed in such a way that the municipal clerk or board of election commissioners of any municipality could, by electronic transmission, add, revise, or remove entries on the list for any elector who resided in, or who the list identified as residing in, that municipality and no other municipality. The Board could not make any changes in entries to the registration list except: (a) upon receipt of official notification by the appropriate election administrative authority of another state, territory, or possession that an elector whose name appeared on the list had registered to vote in that state, territory, or possession, in which case the Board would be required to remove the name of that elector from the list; or (b) if the Board conducted a required canvass (revision and correction of registration lists), the Board would be required to cancel the registration of any elector whose registration was required to be canceled by the municipal clerk or board of election commissioners as a result of the canvass. If the Elections Board removed a name from the list, the Board would be required to promptly notify the municipal clerk of the municipality where the elector resided or had resided, in writing or by electronic transmission.

3. Electronic Filing By Municipalities and Counties. Whenever a municipal clerk (except for certain town clerks described below) would receive a valid registration or a valid change of a name or address under an existing registration and whenever a municipal clerk would cancel a registration, the municipal clerk would be required to promptly enter electronically on the official registration list maintained by the Elections Board the required information, except that the municipal clerk would be allowed to update any entries that change on the date of an election in the municipality within 10 days after that date, and the municipal clerk would be required to provide to the Elections Board information regarding electors qualifying for confidential listings in such manner as the Elections Board would prescribe.

The town clerk of any town having a population of not more than 5,000 would be allowed to designate the county clerk as the town clerk's agent to carry out the electronic filing duties of the town clerk. The town clerk would be required to notify the county clerk of the designation in writing. The town clerk would be allowed, by similar notice to the county clerk at least 14 days prior to the effective date of any change, to discontinue the designation. If the town clerk designated the county clerk as his or her agent, the town clerk would be required to immediately forward all registration changes filed with the town clerk to the county clerk for electronic entry on the registration list.

Whenever discrepancies occurred in entering information from the forms, the original registration forms would be controlling.

4. Grants to Counties. The bill would provide $70,000 in 2002-03 to a newly-created grants to counties and municipalities GPR appropriation to provide grants to counties and municipalities that apply for assistance to finance the cost of maintenance of the new elector registration list. The Board would be required to promulgate rules that prescribed an application procedure and an equitable method for allocation of grant moneys among counties and municipalities who would apply for such grants.

5. Individual Polling Place Registration Lists Prepared by the Elections Board. The Elections Board would be required to prepare registration lists for use at individual polling places. The lists would be required to contain: (a) the full name and address of each registered elector (except for domestic abuse victims); (b) the type of identification card, if any, that each registered elector was able to present and the identifying number contained in that identification card; and (c) a certification of the executive director of the Board stating that the list was a true and complete registration list of the municipality or the ward or wards for which the list was prepared. Consistent with the new system of having one official statewide registration list, municipalities would no longer be required to prepare at least two copies of the registration list for each ward of the municipality and bind them in book form.

6. Confidential Listings of Domestic Abuse Victims. Under current law, the municipal clerk must withhold from public inspection the name and address of a domestic abuse victim who files a valid written request with the clerk to protect the individual's

confidentiality. The bill would include the Elections Board and county clerks designated as agents of municipal clerks for purposes of electronic election filing as additional parties obligated to keep the names and addresses of domestic abuse victims confidential. The written request for a confidential listing could be provided to the county clerk if the county clerk was the municipal clerk's agent and the county clerk would be required to promptly forward a valid request to the municipal clerk. The county clerk would also be authorized to issue a voting identification card, with a unique identification serial number issued by the Elections Board, to electors qualifying for a confidential listing.

c. Registration Forms

1. Filing / Maintaining Original Registration Forms. All original registration forms of electors would have to be maintained in the office of the municipal clerk or board of election commissioners at all times. The bill would remove the requirements for municipalities not employing data processing to: (a) maintain duplicate registration forms; and (b) maintain the original registration forms by ward.

2. Registration Forms. Registration forms would be required to have space for the clerk, issuing officer or registration deputy to record: (a) the ward and aldermanic district, if any, where the elector resides; (b) information on the type of identification, if any, an applicant who was unable to present preferred or alternate identification was able to present and the identifying number contained in that identification; (c) the identification serial number appearing on a valid voting identification issued to a domestic violence victim; and (d) any other information prescribed by rule of the Elections Board.

d. Other Provisions Relating to Individual Registration and Voting

1. Registration at Register of Deeds Office. The current statutory right of a person to register to vote at the office of the register of deeds would be clarified to mean the office of the register of deeds for the county in which the person's residence is located.

2. Late Registration and Entitlement to Vote. If an elector's name was not on the registration list after the close of registration, the person would be required to comply with all other requirements for voting at the polling place.

3. New Resident's Mail Ballot for Presidential Election. If a new state resident wished to mail his or her ballot for the presidential and vice-presidential races, the application for a ballot would be required to be received no later than 5 p.m. on the Friday before the election and, to be counted, would have to be received by the municipal clerk no later than 5 p.m. on the day before the election.

4. New Resident's Cancellation Card. Inspectors at the polling place would be required to return a new resident's voting privileges cancellation card to the municipal clerk, who would then be required to forward the card to the proper official of the person's prior residence, if required.

e. Other Provisions Relating to Election Administration

1. Failure of Election Official to Exercise Due Care to Lawfully Register an Elector to Vote. The bill would create a new election practices violation for an election official failing to exercise due care to lawfully register an elector to vote. Such a violation could be subject to a forfeiture of not more than $1,000.

2. Election Official Sticker or Badge. At all times while performing his or her duties, a person serving as an election official would be required to wear a sticker or badge that indicated the person was an election official and that contained the person's full name.

3. Combining Wards. Whenever a municipality would combine wards or discontinue any ward combination (no later than 60 days before each September primary and general election, and no later than 30 days before each other election), the municipal clerk would be required to promptly notify the Elections Board in writing or by electronic transmission.

4. Municipal Clerk Duties. Except as otherwise required by rules of the Elections Board, municipal clerks would be required to determine whether election officials met the qualifications prescribed by law and whether their conduct was in compliance with the law. The bill would delete the responsibility of municipal clerks to deliver poll list forms to polling places before the polls open. The bill is silent as to how the registration lists prepared for use at polling places by the Elections Board (called poll lists) would be distributed.

f. Additional Elections Board Powers and Duties

1. Appointment of a Special Master. If the Elections Board would find that a municipality had repeatedly and materially failed to substantially comply with the election laws or rules of the Board in administering elections, the Board could appoint a special master to assume all functions of the municipal clerk or board of election commissioners of that municipality with respect to administration of the election laws. The Board would be required to specify in the appointment order the period in which the appointment would apply, which could not exceed 12 months. A special master appointment could be renewed for additional periods of not more than 12 months, if the Board found, at the time of renewal, that the municipality served by the special master was incapable of substantial compliance or was unwilling to substantially comply with the election laws or rules of the Board. During the period of service of a special master in any municipality, all election officials other than the municipal clerk or board of election commissioners would continue to hold their offices and positions and exercise their functions, unless the special master removed an official for: (a) improper conduct or willful neglect of duties (applies to municipal clerks); (b) lacking the required qualifications, failing to attend required training sessions unless excused, neglecting his or her official duties or committing official misconduct (applies to appointed election officials).

The Elections Board would employ the special master as an unclassified employee, whose salary would be set by the Board. The Board would be required to submit a statement of its

reasonable costs incurred to appoint a special master to the municipal treasurer. The municipal treasurer would then be required to reimburse the Board for those costs within 30 days following receipt of the statement. If the municipality failed to timely reimburse the Board, the Board could submit a statement to DOA indicating the amount of the reimbursement due from the municipality. DOA would be authorized to deduct that amount from the next shared revenue payment made to the municipality.

Two new Elections Board appropriations would be created: (a) a program revenue municipal election expenses appropriation to receive payments from the municipalities for special master costs; and (b) a GPR sum sufficient unpaid municipal election expenses appropriation to receive shared revenue payment amounts that would otherwise be paid to a municipality but would instead be paid to the Board for special master expenses in lieu of the municipality making timely payments to the Board. [These two appropriations, and DOA's authority to withhold shared revenue payments, would also be used for Board expenses in conducting canvasses, described under 5. below.]

2. Appointment of a Specially Designated Inspector. If the Elections Board found that an inspector had repeatedly and materially failed to substantially comply with the election laws or rules of the Board in performing his or her functions, the Board could remove that inspector and could appoint a qualified individual to fill the vacancy in the inspector's office, without regard to party affiliation. A specially designated inspector would be exempt from the current law requirement that an inspector be a qualified elector of the ward (expanded to ward or other area in the bill) for which the polling place is established. A specially designated inspector would serve for the remainder of the unexpired term of the former inspector. A specially designated inspector would be required to be compensated by the municipality in which the inspector would serve on the same basis as other inspectors, and would be required to be supervised by the municipal clerk or board of election commissioners in the same manner as provided by law for other inspectors.

3. Administrative Rule Making Authority. The Elections Board would be given the authority to promulgate administrative rules that promote the efficient and fair conduct of elections.

4. Training, Examination and Qualification of Election Officials. The Elections Board could, by rule, prescribe standards and procedures for the training, qualification and examination of election officials.

5. Revision and Correction of Registration Lists (Canvassing) by Elections Board. Under current law, the municipal clerk of a municipality in which registration is required must revise and correct the registration list following each general election by reviewing the registration of any elector who failed to vote within the past four years if qualified to do so during that entire period. The bill would provide that this review must be completed within 90 days following each general election. If, within 120 days following a general election, the municipal clerk or board of election commissioners had not completed the revision and

correction of the municipality's registration list required by statute (called a canvass), the Elections Board would be authorized to conduct the canvass and would be authorized to submit to the municipal clerk or board of election commissioners a statement of its reasonable costs incurred. The municipality would be required to reimburse the Board for those costs within 30 days following receipt of the statement. If the municipality failed to timely reimburse the Board, the Board would be authorized to submit a statement to DOA indicating the amount of the reimbursement due from the municipality and directing DOA to deduct that amount from the next shared revenue payment made to the municipality. The two new appropriations described under 1. above would also be used to receive payments from municipalities or DOA for the Board's canvassing costs.

6. Elections Board Training Program for Election Observers. The Board would be required to conduct training programs for election observers concerning election laws, the procedures for conducting elections and the rights of election observers. The Board would be allowed to charge participants for the cost of the training, and the materials and services program revenue appropriation would be amended to receive training session charges and expend funds to provide training. However, the bill would provide $30,000 GPR, not PR, in 2002-03 to the Board for observer training.

g. Effective Dates. Changes relating to observer training and grants to counties and municipalities would take effect on July 1, 2001, or on the day after publication of the bill, whichever would be later. All other changes would take effect on January 1, 2002.

EMPLOYMENT RELATIONS

26. MERIT RECRUITMENT AND SELECTION PILOT PROGRAMS

Create authority for the Administrator of the Division of Merit Recruitment and Selection in DER to establish one or more pilot programs relating to the appointment and promotion of persons in the classified service. Require that the Administrator specify the criteria and methodology that will be used to evaluate a pilot program and report the terms of each proposed pilot program to the Governor and Legislature at least 30 days before the commencement of a pilot program. Provide that any appointment or promotion under a pilot program must be based on the applicant's merit and fitness for the position and that no pilot program may be in effect for more than one year. Require that the Secretary of DER approve any pilot program and that the Administrator submit, within 60 days after the completion of any pilot program, an evaluation of the program to the Governor and the Legislature. Specify that existing provisions relating to certifications and appointments to classified positions, promotions in the classified service, requirements for competitive

examinations for appointments, use of LTE appointments to classified positions and required probationary periods do not apply to appointments or promotions made under a pilot program authorized under these new provisions unless otherwise provided for under the terms of the pilot program.

27. REPEAL RESIDENCY REQUIREMENT FOR LTE AND PROJECT APPOINTMENTS

Repeal the current law provisions under the state employment statutes that prohibit the appointment of persons who are not residents of this state to limited-term employment (LTE) or project employment under the classified service.

28. DELEGATION OF AUTHORITY TO STATE AGENCIES

Modify current law to repeal the limitations on the delegation authority of the Secretary of the Department and the Administrator of the Division of Merit Recruitment and Selection which specifies that the Secretary or the Administrator may delegate, in writing, any of their respective statutory functions to an appointing authority within a state agency under certain conditions only if the agency indicates its approval to accept the responsibility associated with such delegation. Under this change, the Secretary or Administrator could make such delegations of authority with or without the agency's approval.

29. IMPLEMENTATION OF AFFIRMATIVE ACTION PLANS

Modify current law regarding the recruitment actions of the Administrator of the Division of Merit Recruitment and Selection in relation to promotions in the classified service. Current law provides that the Administrator may limit the applicants for a vacancy in the classified service that is a promotional opportunity to those already in permanent status in the service if the Administrator determines that the resulting group of applicants fairly represents the proportion of various population groups in the relevant state labor pool. Repeal that language and instead specify that the Administrator may restrict the applicant pool to current permanent employees unless he or she determines that it is necessary to expand recruitment to outside the classified service to be consistent with an approved affirmative action plan or program.

30. MODIFY VARIOUS REPORTING REQUIREMENTS

Make the following changes to existing DER reporting requirements as follows:

a. Repeal the: (1) required biennial report (within six months following the effective date of the biennial budget) from the DER Secretary to the State Building Commission regarding the desirability of including plans for day care facility space in any new or substantial

remodeling building program project authorized in the biennial budget act [*Note*: the section that would be repealed also contains a provision allowing the Building Commission to, based on the Secretary's report, direct that plans for day care facility space be included in any such building project]; (2) requirements that: (a) agencies compile written records of reasons for hiring a candidate for a permanent or project position in the classified service if the person hired is not a veteran or a person the hiring of whom would serve affirmative action purposes and submit annual reports to DER; and (b) the Secretary of DER periodical review and evaluate these agencies' written records; (3) requirement that the DER Secretary keep records of the number and percentage of severely disabled employees in the classified service and that agencies provide information about the employment of such individuals to the Secretary of DER [*Note*: definitions regarding severely disabled employees that are currently included in these statutory sections proposed to be repealed would be relocated to the insurance statutes as a part of this change]; and (4) biennial reports to DER by state agencies on their progress in meeting their plan goals relating to developing part-time employment opportunities and flexible work hours schedules.

b. Change the following annual reporting requirements to be biennial reporting requirements: (1) reports from the DER Secretary to the Governor and the Legislature providing: (a) a summary of the accomplishments achieved under existing state agency affirmative action plans; (b) a summary of state agencies' progress in providing state employment opportunities for veterans; and (c) a summary of state agencies' progress in increasing the employment of W-2 recipients in the state civil service; and (2) a report from the state Affirmative Action Council, which is attached to DER.

EMPLOYMENT RELATIONS COMMISSION

31. SELECTION BY SCHOOL DISTRICTS OF GROUP HEALTH INSURANCE PROVIDERS MADE A PERMISSIVE SUBJECT OF BARGAINING UNDER CERTAIN CIRCUMSTANCES

Make the following changes to the Municipal Employment Relations Act relating to the selection of group health care benefits providers by school district employers:

Selection of Health Insurer Made a Permissive Subject of Bargaining under Certain Circumstances. Provide that no school district employer would be required to bargain with respect to the selection of any group health care benefits provider for the district's professional employees if the provider offers health care benefits coverage that is "substantially similar" to that offered by other providers who submit sealed bids for such services to the school district. Include reference to this new permissive subject of bargaining exception in the current statutory

provision stipulating that matters relating to wages, hours and conditions of employment are deemed mandatory subjects of bargaining and the parties to a collective bargaining agreement have a duty to bargain on such matters.

Under current practice, the Commission has consistently held that matters such as changing the benefits provided under group health insurance coverage or choosing an insurance carrier to provide such coverage are mandatory subjects of bargaining. Also, current law requires a school district to solicit sealed bids for the provision of health care benefits to the district's professional employees prior to the selection of any provider. There is no requirement that the school district actually contract with the lowest cost bidder.

Commissioner of Insurance to Promulgate Rules on "Substantially Similar" Coverage. Direct the Commissioner of Insurance to promulgate administrative rules setting out a standardized summary of benefits provided under health care coverage policies and plans for use in determining benefit similarities and differences among policies and plans.

Employment Relations Commission Determination of Whether the School District Employer Has Maintained Health Care Benefits for Purposes of a Qualified Economic Offer (QEO). Stipulate that for the purposes of determining whether the fringe benefits provided by the school district employer to its represented school teacher employees have been maintained for QEO purposes, the Commission would be required to consider substantially similar health care benefits to be identical to existing health care benefits. The Commission would be required to use the rules promulgated by the Commissioner of Insurance to determine if the health care benefits were substantially similar.

Under current law governing QEOs, a school district employer must maintain both the existing fringe benefits package and the district's percentage contribution effort to that package. The employer must also provide any annual funding increase required to maintain the fringe benefits provisions up to the equivalent of 1.7% of total compensation and fringe benefits costs for the school teacher employees. In the event that the school district employer would not have to incur additional expenditures amounting to 1.7% of total compensation and fringe benefits because of the selection of "substantially similar" health care benefits coverage, current law would require that the difference between the lower actual costs and 1.7% (deemed "fringe benefits savings") be passed on to employees as an additional element of the QEO salary offer.

Initial Applicability. Specify that the above provisions would first apply to collective bargaining agreements that expire or are extended, modified, or renewed, whichever occurs first, on and after the general effective date of the biennial budget act.

32. PROHIBITED SUBJECTS OF BARGAINING CURRENTLY AFFECTING THE MILWAUKEE PUBLIC SCHOOLS MADE APPLICABLE TO ALL SCHOOL DISTRICTS

Provide that no school district employer would be required to meet and confer with its represented employees for the purpose of collective bargaining concerning any of the following matters:

Reassignments Due to Charter School Operations. Prohibit any school district employer from bargaining over matters relating to: (a) the reassignment of its employees, with or without regard to seniority, as a result of a decision to contract with any person to operate a charter school or to convert a school to a charter school; or (b) the impact of any such reassignments on the wages, hours and conditions of employment of the employees.

Reassignments Due to Closing Low-Performance Schools. Prohibit any school district employer from bargaining over matters relating to: (a) the reassignment of its employees, with or without regard to seniority, as a result of a decision to close (or subsequently to reopen) a low-performance school; or (b) the impact of any such reassignments on the wages, hours and conditions of employment of the employees.

Contracts with Private, Nonsectarian Schools or Agencies. Prohibit any school district employer from bargaining over matters relating to: (a) any decision to contract with a private, nonsectarian school or agency to provide educational programs; or (b) the impact of any such decision on the wages, hours and conditions of employment of the employees.

Specify that all of these new prohibited subjects of bargaining provisions would first apply to collective bargaining agreements for which notice of commencement of contract negotiations is filed with the Commission on or after the general effective date of the biennial budget act.

Under current law, the above prohibited subjects of bargaining apply only to the Board of School Directors of the Milwaukee Public Schools. Under the proposed modifications, all school district employers (including the Milwaukee Public Schools) would be subject to these prohibitions.

The associated statutory changes affecting school boards and the Board of School Directors of the Milwaukee Public Schools are described under "Public Instruction."

33. NEW PROHIBITED SUBJECTS OF BARGAINING APPLICABLE TO ALL SCHOOL DISTRICTS

Provide that no school district employer would be required to meet and confer with its represented employees for the purpose of collective bargaining concerning any of the following matters:

Layoffs or Reassignments Following School District Consolidation. Prohibit any school district employer from bargaining over matters relating to: (a) the layoff or reassignment of its employees, with or without regard to seniority, during the 60 days following the effective date of a school district consolidation; or (b) the impact of any such layoffs or reassignments on the wages, hours and conditions of employment of the employees.

Assignment of Staff in School Districts with Expanded Flexibility. Prohibit any school district employer from bargaining over matters relating to: (a) the assignment of its employees, with or without regard to seniority, in any school district with expanded flexibility; or (b) the impact of any such assignments on the wages, hours and conditions of employment of the employees.

School districts would be granted expanded flexibility if, during the preceding two school years: (a) the percentage of students at the proficient level or above on pupil and reading assessments was at least equal to the statewide average; (b) commencing in the 2004-05 school year, the percentage of the district's enrolled students who took and passed the high school graduation examination equaled or exceeded the statewide average; (c) the district's high school graduation rate at least equaled the statewide average high school graduation rate; and (d) the district's pupil attendance rate at least equaled the statewide average attendance rate. Among other things, a school district with expanded would be required to allow a pupil's parent or guardian to choose the school in which to enroll the pupil if there are at least two schools that offer the appropriate grade level. To accommodate any changed staffing requirements as a result of parents exercising such enrollment choices, school district would be authorized to reassign any staff members in the district without regard to seniority in service.

Establishment of the School Calendar. Prohibit any school district employer from bargaining over matters relating to the establishment of the school year calendar. Specify that this provision would not be construed to eliminate the employer's duty to bargain collectively with its represented employees with respect to the impact of the school calendar on the wages, hours and conditions of employment of the employees. Clarify an existing school district governance provision to specify that the district has the duty to bargain collectively with respect to the impact of the school calendar on the wages, hours and conditions of employment of the employees. Under current law, that duty to bargain applies to any calendaring proposal which is primarily related to wages, hours and conditions of employment of the employees.

Include a nonstatutory provision prohibiting a school district from conducting classes on either August 31, 2001, or August 30, 2002. Establish a nine-member committee, appointed by the Governor, to study the educational and economic effects of prohibiting school districts from beginning the school term until September 1, and direct the committee to report its findings to the Governor and the Legislature by December 1, 2002.

Specify that all of these new prohibited subjects of bargaining provisions would first apply to collective bargaining agreements for which notice of commencement of contract negotiations is filed with the Commission on or after the general effective date of the biennial budget act.

The associated statutory changes affecting school boards and school district governance are described under "Public Instruction."

FINANCIAL INSTITUTIONS

34. ADMINISTRATIVE DISSOLUTION OF LIMITED LIABILITY COMPANIES

Authorize the Department of Financial Institutions (DFI) to administratively dissolve a limited liability company (LLC) if specified circumstances or conditions exist. Allow DFI to begin a proceeding to administratively dissolve a limited liability company if: (a) the LLC did not pay any fees or penalties due DFI within one year after they are due; (b) the LLC was without a registered agent or registered office in Wisconsin for at least one year; or (c) the LLC did not notify DFI within one year that its registered agent or registered office has been changed, that its registered agent had resigned, or that its registered office had been discontinued.

Procedures for Administrative Dissolution. If DFI determined that one or more grounds existed for administratively dissolving an LLC, the Department would be required to serve the LLC with written notice of the determination. If the address of the LLC's principal office cannot be determined from DFI's records, the LLC could be served notice by publishing a class 2 notice in the official state newspaper. Within 60 days after receiving notice, the LLC would be required to correct each ground for dissolution or demonstrate to DFI that each ground did not exist. If the LLC failed to do so, DFI would be required to administratively dissolve the company by issuing a certificate of dissolution that listed each ground for dissolution and the effective date of the dissolution. DFI would have to file the original certificate and serve a copy on the LLC. An LLC's right to exclusive use of its company name would terminate on the effective date of the dissolution. Current provisions relating to liquidating dissolved LLCs would apply to administrative dissolutions by DFI.

Provisions for Reinstatement Following Administrative Dissolution. An LLC that has been administratively dissolved could apply to DFI for reinstatement. The application would have to contain a statement indicating that each ground for dissolution either did not exist or had been cured and a statement that the LLC's name satisfies state requirements. DFI would be required to cancel the certificate of dissolution and issue a certificate of reinstatement if it determined that: (a) the application contained the requisite information and that the information was correct; and (b) that all fees and penalties owed by the LLC to the Department had been paid. The certificate of reinstatement would have to state the Department's determination and the effective date of reinstatement. DFI would be required to file the original and provide a copy of the certificate to the LLC or its representative. If granted, the reinstatement would relate back to

and take effect as of the effective date of the administrative dissolution, and the LLC would be allowed to resume its business activities as if the administrative dissolution had never occurred.

Provisions for Appealing a Denial of Reinstatement. If DFI denied an LLC's application for reinstatement, it would be required to provide the LLC with a written notice explaining each reason for the denial. The LLC would be allowed to appeal the denial of reinstatement within 30 days after the notice of denial had been perfected. The appeal would have to be directed to the circuit court for the county in which the LLC had its principal office or, if no such office existed in Wisconsin, to the circuit court in the county of its registered office. The appeal would have to petition the court to set aside the dissolution and include copies of DFI's certificate of dissolution, the LLC's application for reinstatement and DFI's notice of denial. The court could order DFI to reinstate the dissolved LLC or take other action it considered appropriate. The court's final decision could be appealed as in other civil proceedings.

These provisions would take effect on January 1, 2002.

35. INTEREST ON MONEY BEING HELD FOR INVESTMENT

Modify the definition of "banking" as it relates to funds temporarily held by real estate and securities agents.

Under current law, the soliciting, receiving or accepting of money or its equivalent on deposit on a regular basis is considered to be doing a banking business. However, an exception to this definition is provided for money left with an agent, pending investment in real estate or securities for, or on account of, the agent's principal unless: (a) the money is not kept in a separate trust fund; (b) the agent receiving the money mingles those funds with his or her own property, with or without the principal's consent; or (c) the agent agrees to pay a certain rate of interest on the funds or agrees to pay interest other than the actual income which may be derived from the funds while pending investment.

The bill would delete the restrictions under (a) to (c), thereby allowing agents to conduct these activities without being engaged in the business of banking.

36. INVESTMENT ADVISER REGISTRATION AND FEES

Allow the Department's Division of Securities to identify, by rule, an outside organization to which federally-registered investment advisers could complete a filing of intention to provide services in Wisconsin. Require such advisers to pay a fee established by the organization to process the filing and permit them to transmit the state fee required under current law to DOS through the outside organization. Current law allows the Division to designate, by rule, an outside organization to which securities broker-dealers, agents and investment advisers may apply for licensure to operate in the state but does not permit certain federally registered advisers to file with any entity other than DOS.

Allow broker-dealers, agents, or investment advisers to pay the prescribed state fee through an outside organization and require them to pay any fee charged by the organization for processing the filing. While current law allows these entities to file with a DOS-designated organization, they are not permitted to transmit the state fee through the organization or required to pay the organization's processing fee.

The current state fees paid to DOS are: (a) a $200 filing fee for a broker-dealer or investment adviser and a $30 fee for an agent representing a broker-dealer, issuer or investment adviser representative; and (b) a $200 fee for initial filing or renewal for federally covered advisers. In addition, there is a filing fee of $30 per branch office for both classes of advisers.

37. REGULATION OF CREDIT UNIONS

Specify that credit unions are not included in the definition of "business" that is subject to regulation by the Department of Agriculture, Trade and Consumer Protection. Currently, banks, savings banks, saving and loan associations and insurance companies are excluded from this definition.

Make the following changes to the statutes relating to the regulation of credit unions (Chapter 186 of the statutes):

Definitions

Modify the current definition of "credit union" to provide exceptions for credit unions resulting from interstate acquisitions and mergers and for non-Wisconsin credit unions that operate in this state under provisions outlined below. Under current law, "credit union" means a cooperative, nonprofit corporation, incorporated under Chapter 186 to encourage thrift among its members, create a source of credit at a fair and reasonable cost and provide an opportunity for its members to improve their economic and social conditions.

Credit Union Bylaws and Board Duties

Change the statutes related to credit union bylaws and board duties as follows:

a. Specify that credit union bylaws would have to prescribe the conditions that determine eligibility for membership. Currently, the bylaws must prescribe the conditions of residence or occupation that qualify persons for membership.

b. Amend the current requirement that credit unions be open to certain groups of individuals, including residents within a well-defined neighborhood, community or rural district to require, instead, that credit unions be open to individuals who reside or are employed within: (1) well-defined and contiguous neighborhoods and communities; or (2) well-defined and contiguous rural districts or multicounty regions. Provide that if, following a merger of credit unions, DFI's Office of Credit Unions (OCU) determines that it would be inappropriate to

require members of the resulting credit union to reside or be employed within well-defined and contiguous neighborhoods and communities, the requirement under (1) would not apply.

c. Eliminate the definition of "members of the immediate family" in the current provision specifying that members of the immediate family of all qualified persons are eligible for membership. Under present law, "members of the immediate family" include the wife, husband, parents, stepchildren and children of a member whether living together in the same household or not and any other relatives of the member or spouse of a member living together in the same household as the member. Under the bill, "members of the immediate family" would be defined in the general bylaws establishing membership criteria under (a) above.

d. Provide that organizations and associations of individuals could be admitted to membership in a credit union in the same manner and under the same conditions as individuals if the majority of the association's or organization's directors, owners or members are eligible. Current law provides that such organizations and associations are eligible if the majority of individuals in the association or organization are eligible for membership. Also, specify that an organization or association that has its principal business location within the geographic limits of the credit union's field of membership could be admitted to membership.

Investments of Credit Unions

Make the following changes to the statutes relating to investments of credit unions:

a. Change all references regarding investment in "credit union service corporations" to, instead, refer to "credit union service organizations."

b. Permit a credit union to invest more than 1.5% of its total assets in the capital shares or obligations of a credit union service organization organized primarily to provide goods and services to credit unions, credit union organizations and credit union members, if approved by OCU. Allow such investments in service organizations that are structured as corporations, limited partnerships, limited liability companies or other entities that are permitted under state law and approved by OCU. Under current law, a credit union may invest up to 1.5% of its total assets in the capital shares or obligations of a credit union service corporation. OCU may not approve a higher percentage, and the service organization must be a corporation.

c. Add electronic transaction services to the list of services that credit union service organizations may provide.

Credit Union Powers

Make the following changes to the statutes on credit union powers:

a. Provide that, with OCU's approval, a credit union could establish branch offices inside this state or outside of this state. Currently, a credit union may establish branch offices in

Wisconsin or no more than 25 miles outside of this state if the need and necessity exist and with the approval of OCU.

b. Provide that the current law provisions that authorize a credit union to establish limited services offices outside this state to serve any member of the credit union under specified conditions would only apply to such services established prior to the bill's general effective date. [Out-of-state branch offices would be permitted after that date.]

c. Authorize credit unions to: (1) act as trustees or custodians of member tax deferred retirement funds, individual retirement accounts, medical savings accounts or other employee benefit accounts or funds permitted by federal law to be deposited in a credit union; and (2) act as a depository for member qualified and nonqualified deferred compensation funds as permitted by federal law. Current law authorizes credit unions to act as trustees of member tax deferred funds permitted by federal law to be deposited in a credit union and to act as a depository for member-deferred compensation funds as permitted by federal law.

d. Create a provision that would authorize a credit union to accept deposits made by members for the purpose of funding burial agreements by certain trusts.

Financial Privacy

Create a new provision requiring credit unions to comply with federal requirements and regulations prescribed by the National Credit Union Administration relating to financial privacy, and requiring OCU to examine a credit union to determine compliance with these provisions.

Office of Credit Unions

a. Require employees of OCU and members of the Credit Union Review Board to keep secret all facts and information obtained in the course of examinations or contained in any report provided by a credit union other than any semiannual or quarterly financial report that is regularly filed with OCU, except in specified situations. Current law does not include the reference to information "contained in any report provided by a credit union other than any semiannual or quarterly financial report that is regularly filed with the Office of Credit Unions."

b. Provide that if an OCU employee or Credit Union Review Board member illegally discloses information about the private account or transactions of a credit union or information obtained in the course of a credit union examination, that person could be required to forfeit his or her office or position and could be fined between $100 and $1,000, imprisoned for six months to three years, or both.

c. Specify that examination reports possessed by credit unions are confidential, remain the property of OCU and must be returned to the office immediately upon request.

d. Repeal the current provision that allows OCU to accept certain audits in lieu of conducting an annual examination. Under present law, at least annually, OCU must examine the records and accounts of each credit union. However, instead of conducting an examination, OCU may accept an audit report made by a certified public accountant not an employee of the credit union in accordance with rules of the Office or may accept an examination or audit made or approved by the National Credit Union Administration Board (NCUAB).

Sales of Insurance in Credit Unions

Require any officer or employee of a credit union, when acting as an agent for the sale of insurance on behalf of the credit union, to pay all commissions received from the sale of insurance to the credit union. Current law provides similar provisions but specifies that they apply to such commissions received from the sale of credit life insurance or credit accident and sickness insurance.

Interstate Acquisitions and Mergers of Credit Unions

Amend the statutes related to interstate acquisitions and mergers of credit unions as follows:

a. Define a "Wisconsin credit union" as a credit union having its principal office located in this state. Current law applies this definition to an "in-state credit union" rather than a "Wisconsin credit union."

b. Authorize a Wisconsin credit union to acquire or merge with credit unions located in any other state. Currently, an in-state credit union may acquire or merge with one or more regional credit unions (a state or federal credit union that has its principal office located in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri or Ohio).

c. Allow any out-of-state credit union (a state or federal credit union that has its principal office in a state other than Wisconsin) to acquire or merge with Wisconsin credit unions. Current law allows only regional credit unions to acquire or merge with in-state credit unions.

d. Repeal a current provision that requires any in-state or regional credit union that has acquired assets of or merged with an in-state credit union and that ceases to be an in-state credit union or regional credit union to immediately notify OCU of the change in its status and, as soon as practical within two years after the event causing it to no longer be one of these entities, divest itself of control of any interest in the assets or operations of any in-state credit union. In addition, repeal the current penalty for failure to immediately notify OCU (a forfeiture of $500 for each day beginning with the day its status changes and ending with the day notification is received by the Office).

Wisconsin Offices of a Non-Wisconsin Credit Union

Create the following provisions related to a Wisconsin office of a non-Wisconsin Credit Union

Definitions. Define a "non-Wisconsin credit union" as a credit union organized under the laws of and with its principal office located in another state. Specify that "Wisconsin credit union" would have the meaning given under "Interstate Acquisitions and Mergers of Credit Unions."

Authority. Permit non-Wisconsin credit unions to open an office and conduct business as a credit union in this state if OCU finds that Wisconsin credit unions are allowed to do business in the other state under conditions similar to those contained under these provisions and that all of the following apply to the non-Wisconsin credit union: (a) it is organized under laws similar to the credit union laws of this state; (b) it is financially solvent based upon NCUAB ratings; (c) it has member savings insured with federal share insurance; (d) it is effectively examined and supervised by the credit union authorities of the state in which it is organized; (e) it has received approval from the credit union authorities of the state in which it is organized; (f) it has a need to place an office in this state to adequately serve its members in this state; and (g) it meets all other relevant standards or qualifications established by OCU.

Requirements. Require non-Wisconsin credit unions to do all of the following: (a) grant loans at rates not in excess of the rates permitted for Wisconsin credit unions; (b) comply with Wisconsin laws; and (c) designate and maintain an agent for the service of process in this state.

Records. Specify that, as a condition of a non-Wisconsin credit union doing business in this state, OCU could require the non-Wisconsin credit union to provide copies of examination reports and other related correspondence from the state in which the non-Wisconsin credit union has its principal office.

False Statements

Create a provision that would prohibit an officer, director, or employee of a credit union from: (a) willfully and knowingly subscribing to or making, or causing to be made, a false statement or entry in the books of the credit union; (b) knowingly subscribing to or exhibiting false information with the intent to deceive any person authorized to examine the affairs of the credit union; and (c) knowingly making, stating, or publishing any false report or statement of the credit union. Specify that any person who commits any of these infractions could be fined not less than $1,000 nor more than $5,000 or imprisoned for not less than one year nor more than 15 years, or both.

38. UNIVERSAL BANKING

Authorize the Division of Banking (DOB) within the Department of Financial Institutions to certify savings banks, saving and loan associations and state banks as "universal banks" under the procedures and with the powers outlined below. Provide that a universal bank would be one of the regulated entities under the powers of supervision and control of DOB. The provisions relating to universal banks would be created in a new chapter of the statutes, and could be cited as the "Wisconsin universal bank law" (UB Law).

General Provisions

Under current law, the Division of Savings Institutions (DSI) regulates savings banks and savings and loan associations. DOB regulates state banks. The powers and regulation of these financial institutions are specified in the statutes and vary by type of institution. The UB Law would allow such financial institutions organized under state statutes to apply to DOB to be certified as a universal bank. Certification as a universal bank would provide expanded powers when compared to those currently held by the individual financial institutions. Financial institutions certified as universal banks would remain subject to existing requirements, duties and liabilities and would retain their powers as savings banks, savings and loan associations or state banks, except that, in the event of a conflict between the UB Law and such requirements, duties, liabilities or powers, the UB Law would control.

The Division of Banking would be required to administer the UB Law for all universal banks and to establish such fees as it determined were appropriate for documents filed with the Division and for services provided by the Division. DOB would also be authorized to promulgate rules to carry out the UB Law and to establish additional limits or requirements on universal banks if it determined that the limits or requirements were necessary for the protection of depositors, members, investors or the public.

Certification

A state-chartered savings bank, savings and loan association or bank would be allowed to apply to become certified as a universal bank by filing a written application with DOB including such information as the Division required and on such forms and in accordance with such procedures as DOB prescribed. DOB would be required to approve or disapprove the application in writing within 60 days after its submission to the Division. However, DOB and the financial institution could mutually agree to extend the application period for an additional 60 days.

DOB would be required to approve an application for certification as a universal bank if the applying financial institution met all of the following requirements:

a. It was chartered or organized, and regulated, as a savings bank, savings and loan association or state bank under Wisconsin statutes and had been in existence and continuous operation for a minimum of three years prior to the date of the application.

b. It was "well-capitalized" as defined by federal law related to banks and banking.

c. It did not exhibit a combination of financial, managerial, operational and compliance weaknesses that were moderately severe or unsatisfactory, as determined by the Division based upon the Division's assessment of the financial institution's capital adequacy, asset quality, management capability, earnings quantity and quality, adequacy of liquidity and sensitivity to market risk.

d. During the 12-month period prior to the application, it had not been the subject of an enforcement action and had no enforcement action pending against it by any state or federal financial institution regulatory agency, including DOB.

e. The most recent evaluation under federal community reinvestment laws rated the financial institution as "outstanding" or "satisfactory" in helping to meet the credit needs of its entire community, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of the institution.

f. The financial institution's federal-level regulator determined, by means of an examination, that the institution was in substantial compliance with federal laws regarding the protection of customers' nonpublic personal information.

For any period during which a universal bank failed to meet such requirements, the Division would be required to limit or restrict the exercise of the powers of the universal bank under the UB Law. In addition, the Division could revoke the universal bank's certificate of authority.

DOB would be required to issue to an applicant approved for certification as a universal bank a certificate of authority stating that the financial institution was so certified.

A financial institution certified as a universal bank would be authorized to terminate its certification upon 60 days' prior written notice to the Division and written approval of the Division. As a condition to the termination, the financial institution would be required to terminate its exercise of all powers granted under the UB Law prior to the termination of the certification. Written approval of the termination by DOB would be void if the financial institution failed to satisfy this precondition to termination.

Organization

Articles of Incorporation and Bylaws. A universal bank would continue to operate under its articles of incorporation and bylaws as in effect prior to certification as a universal bank or as such articles or bylaws were subsequently amended in accordance with the provisions of the statutes under which the universal bank was organized or chartered.

Name of a Universal Bank. Under current law and with certain exceptions, an institution organized as a state savings bank is required to adopt a name that identifies it as such and that includes the term "savings." With certain exceptions, an institution organized as a mutual savings and loan association or as a capital stock savings and loan association is required to include the words "savings and loan association" or "savings association" in its name. Such an institution is required to include the word "savings" in its name if its name includes the word "bank."

Subject to certain provisions on distinguishability and use of the same name, as described below, the UB Law would allow a state savings bank, state mutual savings and loan association or state capital stock savings and loan association that had been certified as a universal bank to use the word "bank" in its name, without having to include the word "savings." In addition, subject to the same provisions on distinguishability and use of the same name, the UB Law would specify that a universal bank organized as a savings and loan association that used the word "bank" in its name in accordance with the UB Law need not include the words "savings and loan association" or "savings association" in its name.

The UB Law would require that, with certain exceptions, the name of the universal bank be distinguishable upon the records of DOB from the following: (a) the name of any other financial institution organized under the laws of this state; and (b) the name of a national bank or foreign bank authorized to transact business in this state.

However, a universal bank would be allowed to apply to the Division for authority to use a name that did not meet such requirements as to a distinguishable name. DOB could authorize the use of the name if either of the following conditions were met: (a) the other bank consented to the use in writing and submitted an undertaking, in a form satisfactory to DOB, to change its name to a name that was distinguishable upon the records of the Division from the name of the applicant; or (b) the applicant delivered to DOB a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state. Such exceptions to the distinguishable name requirements are consistent with current law for state banks.

In addition, a universal bank would be able to use a name that was used in this state by another financial institution, or by an institution authorized to transact business in this state, if the universal bank had done any of the following: (a) merged with the other institution; (b) been

formed by reorganization of the other institution; or (c) acquired all or substantially all of the assets, including the name, of the other institution.

Capital Requirements

Current law provides differing requirements related to capital, net worth and capital stock for the various types of financial institutions. For a savings bank, the statutes specify that such an institution may be organized to exercise the powers conferred by the relevant statutes with minimum capital, surplus and reserves for operating expenses as determined by the Division of Savings Institutions. Additional specifications are made in such areas as evidence and maintenance of capital, dividends and the nature of capital stock, capital stock loans and retirement or reduction of capital stock.

The statutes on savings and loan associations provide that such institutions must maintain net worth at an amount not less than the minimum amount established by DSI and authorize DSI to take appropriate action if an association fails to maintain the minimum net worth required.

Under current law, DOB determines the required capital of a state bank, subject to review by the Banking Review Board. The statutes also specify that a contingent fund and paid-in surplus each in an amount equal to at least 25% of the aggregate amount of the capital stock must be subscribed at the time the subscription list of shareholders is prepared by the incorporators.

Notwithstanding such provisions, the UB Law would authorize DOB to determine the minimum capital requirements of a savings bank, savings and loan association and state bank certified as a universal bank.

The UB Law would define capital for a universal bank organized as a stock organization as the sum of the following, less the amount of intangible assets that were not considered to be qualifying capital by a deposit insurance corporation or the Division: (a) capital stock; (b) preferred stock; (c) undivided profits; (d) surplus; (e) outstanding notes and debentures approved by DOB; (f) other forms of capital designated as capital by the Division; and (g) other forms of capital considered to be qualifying capital of the universal bank by a deposit insurance corporation. For a universal bank organized as a mutual organization, the same definition would apply except that net worth would be substituted for capital and preferred stock. "Deposit insurance corporation" would mean the Federal Deposit Insurance Corporation or other instrumentality of, or corporation chartered by, the United States that insures deposits of financial institutions and that is supported by the full faith and credit of the U.S. government as stated in a congressional resolution.

Under current law, a state savings bank is required to achieve and maintain status as an Internal Revenue Service qualified thrift lender. Such status requires meeting either the 60%

asset test of the section of the Internal Revenue Code (IRC) on domestic building and loan associations, or an asset test prescribed by rule of DSI that is not less than the percentage prescribed by such section of the IRC. The UB Law would specify that this requirement does not apply to universal banks.

Acquisitions, Mergers and Asset Purchases

The UB Law would authorize a universal bank, with the approval of DOB, to purchase the assets of, merge with, acquire or be acquired by any other financial institution, universal bank, national bank, federally chartered savings bank or savings and loan association, or by a holding company of any of these entities. An application for approval of such acquisitions, mergers and asset purchases would have to be submitted on a form prescribed by DOB and accompanied by a fee determined by the Division. Notwithstanding other provisions of state law, DSI approval would not be required for acquisitions or mergers involving a state savings bank or savings and loan association.

In processing and acting on applications for approval of acquisitions, mergers and asset purchases involving a universal bank, DOB would be required to apply the standards specified in the statutes governing the type of financial institution under which the universal bank had been organized or chartered.

Federal Financial Institution Powers.

Subject to the limitations outlined below, the UB Law would authorize universal banks to exercise all powers that may be exercised, directly or indirectly through a subsidiary, by a federally chartered savings bank, a federally chartered savings and loan association or a federally chartered national bank. A universal bank would be required to file a written request with DOB to exercise a power under these provisions. Within 60 days after receiving the request, the DOB would be required to approve or disapprove it. The 60-day deadline could be extended by an additional 60 days if DOB and the institution mutually agree to an extension. The UB Law would specify that DOB could require that certain powers exercisable by universal banks be exercised through a subsidiary of the universal bank with appropriate safeguards to limit the risk exposure of the universal bank.

Loan Powers

General Provisions. The UB Law would permit a universal bank to make, sell, purchase, arrange, participate in, invest in or otherwise deal in loans or extensions of credit for any purpose. With the exceptions described below, the total liabilities of any person, other than a municipal corporation, to a universal bank for a loan or extension of credit could not exceed 20% of the capital of the universal bank at any time. In determining compliance with this restriction, liabilities of a partnership would include the liabilities of the general partners, computed individually as to each general partner on the basis of his or her direct liability.

However, the UB Law would provide that the percentage limitation described above would be 50% of the universal bank's capital if the borrower's debts were limited to certain types of liabilities. The first type includes a liability secured by warehouse receipts issued by warehouse keepers who are licensed and bonded under state law or under the federal Bonded Warehouse Act or who hold a registration certificate under Wisconsin law referred to as the Warehouse Keepers and Grain Dealers Security Act, if: (a) the receipts cover readily marketable nonperishable staples; (b) the staples are insured, if it is customary to insure the staples; and (c) the market value of the staples is not, at any time, less than 140% of the face amount of the obligation.

The second type of liability for which the percentage limitation described above would be 50% of the universal bank's capital is a liability in the form of a note or bond that met any of the following qualifications: (a) the note or bond is secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States; (b) the note or bond is secured or covered by guarantees or by commitments or agreements to take over, or to purchase, the bonds or notes, and the guarantee, commitment or agreement was made by a federal reserve bank, the federal Small Business Administration, the federal Department of Defense or the federal Maritime Commission; or (c) the note or bond is secured by mortgages or trust deeds insured by the federal Housing Administration.

Local Governmental Units. The UB Law would specify that liabilities of a local governmental unit could not exceed 25% of a universal bank's capital. However, if the local governmental unit's liabilities were in the form of general obligations, the limit would be extended to 50%. If the liabilities included both revenue and general obligations, the limit would be 25% for the revenue obligations and a total of 50% for the combination of revenue and general obligations.

In addition, the total amount of temporary borrowings of any local governmental unit maturing within one year after the date of issue could not exceed 60% of the capital of the universal bank. Temporary borrowings and longer-term general obligation borrowings of a single local governmental unit could be considered separately in determining compliance with this provision.

Foreign National Government Bonds. A universal bank would be authorized to purchase general obligation bonds issued by any foreign national government if the bonds were payable in United States funds. The aggregate investment in these foreign bonds would not be permitted to exceed 3% of the capital of the universal bank, except that this limitation would not apply to bonds of the Canadian government and Canadian provinces that were payable in United States funds.

Other Foreign Bonds. The UB Law would authorize a universal bank to purchase bonds offered for sale by the International Bank for Reconstruction and Development and the Inter-

American Development Bank or such other foreign bonds as were approved under rules established by DOB. The UB Law would specify that the aggregate investment in any of these bonds issued by a single issuer could not exceed 10% of the capital of the universal bank.

Limits Established by the Board of Directors. The UB Law would provide that the board of directors of a universal bank could establish an aggregate total level above which a universal bank could not make or renew a loan or loans without being supported by a signed financial statement of the borrower, unless the loan was secured by collateral having a value in excess of the amount of the loan. A signed financial statement furnished by the borrower to a universal bank in compliance with this provision would have to be renewed annually as long as the loan or any renewal of the loan remained unpaid and was subject to this provision. A loan or a renewal of a loan made by a universal bank in compliance with the level established by the board of directors of the universal bank, without a signed financial statement, could be treated by the universal bank as entirely independent of any secured loan made to the same borrower if the loan did not exceed the limitations provided under the UB Law related to loan powers.

Exceptions to Loan Powers of Universal Banks. The limits on individual liabilities would not apply to the following:

a. Liabilities secured by certain short-term federal obligations. A liability that was secured by not less than a like amount of direct obligations of the United States which would mature not more than 18 months after the date on which such liabilities to the universal bank were entered into;

b. Certain federal and state obligations or guaranteed obligations. A liability that was a direct obligation of the United States or this state, or an obligation of any governmental agency of the United States or this state, that was fully and unconditionally guaranteed by the United States or this state;

c. Commodity Credit Corporation liabilities. A liability in the form of a note, debenture or certificate of interest of the Commodity Credit Corporation;

d. Discounting bills of exchange or business or commercial paper. A liability created by the discounting of bills of exchange drawn in good faith against actually existing values or the discounting of commercial or business paper actually owned by the person negotiating the same; and

e. Certain other federal or federally guaranteed obligations. In obligations of, or obligations that were fully guaranteed by, the United States and in obligations of any federal reserve bank, federal home loan bank, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Export-Import Bank of Washington or the Federal Deposit Insurance Corporation.

Additional Loan Authority. Under current law for state banks, debts due a bank on which interest is past due and unpaid for a period of 12 months generally must be considered bad debts. Such bad debts must be charged off to the profit and loss account at the expiration of one year from the date on which the debt became past due, unless the debts are well secured or in the process of collections.

The UB Law would permit a universal bank to lend, to all borrowers, up to 20% of its capital, which would not be subject to classification as bad debts or losses for a period of two years. A universal bank or its subsidiary would be permitted to take an equity position or other form of interest as security in a project funded under this additional loan authority. Every transaction by a universal bank or its subsidiary under these provisions would require prior approval by the governing board of the universal bank or its subsidiary, respectively. Such loans could be dispersed directly or through a subsidiary. However, neither a universal bank nor any subsidiary of the universal bank could lend to any individual borrower an amount that would result in an aggregate amount for all loans to that borrower to exceed 20% of the universal bank's capital. As outlined below, DOB could suspend this additional loan authority.

Suspension of Additional Loan Authority. DOB could suspend the additional loan authority and, in such case, specify how an outstanding loan would be treated by the universal bank or its subsidiary. Among the factors that the Division could consider in suspending authority under this provision are the universal bank's capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity and sensitivity to market risk and the ability of the universal bank's management.

Exercise of Loan Powers; Prohibited Considerations. In determining whether to make a loan or extension of credit, no universal bank could consider any health information obtained from the records of an affiliate of the universal bank that is engaged in the business of insurance, unless the person to whom the health information relates consents.

Investment Powers

Investment Securities. With certain exceptions described below, a universal bank would be authorized to purchase, sell, underwrite and hold investment securities, consistent with safe and sound banking practices, up to 100% of the universal bank's capital. A universal bank would not be permitted to invest greater than 20% of its capital in the investment securities of one obligor or issuer. For purposes of this provision, "investment securities" would include commercial paper, banker's acceptances, marketable securities in the form of bonds, notes, debentures and similar instruments that are regarded as investment securities.

Equity Securities. Subject to the same exceptions, a universal bank would also be authorized to purchase, sell, underwrite and hold equity securities, consistent with safe and sound banking practices, up to 20% of capital or, if approved by the Division in writing, a greater percentage of capital.

Exceptions to Securities Investment Powers. The UB Law would specify the following exceptions to the general powers of a universal bank to invest in investment and equity securities.

a. Housing Activities. With the prior written consent of DOB, a universal bank would be permitted to invest in the initial purchase and development, or the purchase or commitment to purchase after completion, of home sites and housing for sale or rental, including projects for the reconstruction, rehabilitation or rebuilding of residential properties to meet the minimum standards of health and occupancy prescribed for a local governmental unit, the provision of accommodations for retail stores, shops and other community services that were reasonably incident to that housing, or in the stock of a corporation that owned one or more of those projects and that was wholly owned by one or more financial institutions. The total investment in any one project could not exceed 15% of the universal bank's capital, nor could the aggregate investment under these provisions exceed 50% of capital. Under these provisions, a universal bank could not make an investment unless it was in compliance with the capital requirements set by DOB under the UB Law and with the capital maintenance requirements of its deposit insurance corporation.

b. Profit-Participation Projects. The UB Law would specify that a universal bank could take equity positions in profit-participation projects, including projects funded through loans from the universal bank, in an aggregate amount not to exceed 20% of capital. However, DOB could suspend the investment authority under this provision. If the Division suspended the investment authority, the Division could specify how outstanding investments in such projects would be treated by the universal bank or its subsidiary. Among the factors that the Division could consider in suspending authority under this provision are the universal bank's capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity and sensitivity to market risk and the ability of the universal bank's management. These provisions would not authorize a universal bank, directly or indirectly through a subsidiary, to engage in the business of underwriting insurance.

c. Debt Investments. In general, the UB Law would authorize a universal bank to invest in bonds, notes, obligations and liabilities as described under the UB Law with respect to loan powers, subject to the limitations under those provisions. However, the limits outlined in the section on loan powers would not apply to the following liabilities: (a) liabilities secured by certain short-term federal obligations; (b) certain federal and state obligations or guaranteed obligations; (c) Commodity Credit Corporation liabilities; (d) liabilities created by discounting bills of exchange or business or commercial paper; or (e) certain other federal or federally guaranteed obligations. Such liabilities are described in greater detail under the preceding provisions on loan powers.

Additional Investments. The UB Law would provide that a universal bank could invest without limitation in any of the following:

a. Stocks or obligations of a corporation organized for business development by this state or by the United States or by an agency of this state or the United States.

b. Obligations of an urban renewal investment corporation organized under the laws of this state or of the United States.

c. An equity interest in an insurance company or an insurance holding company organized to provide insurance for universal banks and for persons affiliated with universal banks, solely to the extent that this ownership was a prerequisite to obtaining directors' and officers' insurance or blanket bond insurance for the universal bank through the company.

d. Shares of stock, whether purchased or otherwise acquired, in a corporation acquiring, placing and operating remote service units of a savings banks or savings and loan association or for bank communications terminals.

e. Equity or debt securities or instruments of a service corporation subsidiary of the universal bank.

f. Advances of federal funds.

g. With the prior written approval of the Division, financial futures transactions, financial options transactions, forward commitments or other financial products for the purpose of reducing, hedging or otherwise managing the bank's interest rate risk exposure.

h. A subsidiary organized to exercise corporate fiduciary powers under state law.

i. An agricultural credit corporation. Unless a universal bank owned at least 80% of the stock of the agricultural credit corporation, a universal bank could not invest more than 20% of the universal bank's capital in the agricultural credit corporation.

j. Deposit accounts or insured obligations of any financial institution, the accounts of which are insured by a deposit insurance corporation.

k. Obligations of, or obligations that are fully guaranteed by, the United States and stocks or obligations of any federal reserve bank, federal home loan bank, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Deposit Insurance Corporation.

l. Any other investment authorized by DOB.

In addition to the authority granted under the UB Law on acquisitions, mergers and asset purchases and on stock in bank-owned banks, and subject to the provisions of the UB Law with respect to equity securities, a universal bank would be authorized to invest in other financial institutions.

A universal bank would be permitted to make investments under the provisions outlined above, directly or indirectly through a subsidiary, unless DOB determined that an investment should be made through a subsidiary with appropriate safeguards to limit the risk exposure of the universal bank.

Universal Bank Purchase of its Own Stock

With certain exceptions, a universal bank could hold or purchase not more than 10% of its own capital stock, notes or debentures. However, a universal bank could exceed this limit if approved by DOB. In addition, a universal bank could hold or purchase more than 10% of its capital stock, notes or debentures if the purchase was necessary to prevent loss upon a debt previously contracted in good faith. Stock, notes or debentures held or purchased under this provision could not be held by the universal bank for more than six months if the securities could be sold for the amount of the claim of the universal bank against the holder of the debt previously contracted. The universal bank would be required to either sell the stock, notes or debentures within 12 months of acquisition under this provision or to cancel the stock, notes or debentures. Cancellation of the stock, notes or debentures would reduce the amount of the universal bank's capital stock, notes or debentures. If the reduction decreased the universal bank's capital below the minimum level required by DOB, the universal bank would have to increase its capital to the required amount.

A universal bank could not loan any part of its capital, surplus or deposits on its own capital stock, notes or debentures as collateral security, except that a universal bank would be allowed to make a loan secured by its own capital stock, notes or debentures to the same extent that the universal bank could make a loan secured by the capital stock, notes and debentures of a holding company for the universal bank.

Stock in Bank-Owned Banks

With the approval of DOB, a universal bank would be authorized to acquire and hold stock in one or more banks chartered under state statutes on bank-owned banks or national banks chartered under federal law or in one or more holding companies wholly owning such a bank. Aggregate investments under this provision could not exceed 10% of the universal bank's capital.

General Deposit Powers

The UB Law would provide that a universal bank could set eligibility requirements for, and establish the types and terms of, deposits that the universal bank could solicit and accept. The terms set under this provision could include minimum and maximum amounts that the universal bank would be able to accept and the frequency and computation method of paying interest.

A universal bank would be allowed to pledge its assets as security for deposits, subject to the limitations under current law applicable to banks.

With the approval of DOB, a universal bank would be permitted to securitize its assets for sale to the public. The Division could establish procedures governing the exercise of authority granted under this provision.

A universal bank would be authorized to take and receive, from any individual or corporation for safekeeping and storage, gold and silver plate, jewelry, money, stocks, securities, and other valuables or personal property. A universal bank could also rent out the use of safes or other receptacles upon its premises. A universal bank would have a lien for its charges on any property taken or received by it for safekeeping. If the lien was not paid within two years from the date the lien accrued, or if property was not called for by the person depositing the property, or by his or her representative or assignee, within two years from the date the lien accrued, the universal bank could sell the property at public auction. A universal bank would be required to provide the same notice for a sale under this provision that is required for sales of personal property on execution. After retaining from the proceeds of the sale all of the liens and charges due the bank and the reasonable expenses of the sale, the universal bank would be required to pay the balance to the person depositing the property, or to his or her representative or assignee.

Other Service and Incidental Activity Powers

Unless otherwise prohibited or limited by the UB Law, a universal bank would be authorized to exercise all powers necessary or convenient to effect the purposes for which the universal bank was organized or to further the businesses in which the universal bank was lawfully engaged.

Reasonably Related and Incidental Activities.. Subject to any applicable state or federal regulatory or licensing requirements, a universal bank could engage, directly or indirectly through a subsidiary, in activities reasonably related or incident to the purposes of the universal bank. Such activities would be those that are part of the business of financial institutions, or closely related to the business of financial institutions, or convenient and useful to the business of financial institutions, or reasonably related or incident to the operation of financial

institutions or are financial in nature. Activities that would be considered reasonably related or incident to the purposes of a universal bank would specifically include the following:

1. Business and professional services;
2. Data processing;
3. Courier and messenger services;
4. Credit-related activities;
5. Consumer services;
6. Real estate-related services, including real estate brokerage services;
7. Insurance and related services, other than insurance underwriting;
8. Securities brokerage;
9. Investment advice;
10. Securities and bond underwriting;
11. Mutual fund activities;
12. Financial consulting;
13. Tax planning and preparation;
14. Community development and charitable activities;
15. Debt cancellation contracts;
16. Any activities reasonably related or incident to activities on the list above as determined by rule of DOB;
17. An activity that is authorized by statute or regulation for financial institutions to engage in as of the effective date of this provision (the first day of the third month beginning after publication of the bill); and
18. An activity permitted under the Bank Holding Company Act.

In addition, DOB would be authorized to expand, by rule, the list of activities reasonably related or incident to the purposes of a universal bank. Any additional activity approved by the Division would be authorized for all universal banks.

A universal bank would be required to give 60 days' prior written notice to DOB of the universal bank's intention to engage in an activity under these provisions.

Standards for Denial. DOB would be permitted to deny the authority of a universal bank to engage in an activity under these provisions, other than the first 15 activities listed above, if the Division determined any of the following: (a) that the activity was not an activity reasonably related or incident to the purposes of a universal bank; (b) that the universal bank was not well-capitalized; (c) that the universal bank was the subject of an enforcement action; or (d) that the universal bank did not have satisfactory management expertise for the proposed activity.

Insurance Intermediation. A universal bank, or an officer or salaried employee of a universal bank, would be permitted to obtain a license as an insurance intermediary, if otherwise qualified. A universal bank could not, directly or indirectly through a subsidiary, engage in the business of underwriting insurance.

Activities Approved by DOB. A universal bank would be authorized to engage in any other activity that was approved by rule of DOB. In addition, a universal bank could engage in activities under these provisions, directly or indirectly through a subsidiary, unless the Division determined that an activity had to be conducted through a subsidiary with appropriate safeguards to limit the risk exposure of the universal bank.

Activities Provided Through a Subsidiary. The amount of the investment in any one subsidiary that engaged in an activity under these provisions could not exceed 20% of capital or a higher percentage if approved by DOB. The aggregate investment in all subsidiaries that engaged in an activity under this provision could not exceed 50% of capital or a higher percentage authorized by the Division. A subsidiary that engaged in an activity under these provisions could be owned jointly, with one or more other financial institutions, individuals or entities.

Trust Powers

Subject to rules of DOB, a universal bank would be permitted to exercise trust powers in accordance with such authority granted by the statutes to state banks.

Rule-Making

DOB would be permitted to establish a rule specifying activities that are related to or incident to the purposes of a universal bank without complying with the notice, hearing and publication procedures under Chapter 227. The Division would be required to file the rule with the Secretary of State and the Revisor of Statutes, as generally required under Chapter 227. At the time of filing, DOB would be required to mail a copy of the rule to the chief clerk of each house and to each member of the Legislature. In addition, DOB would be required to publish a class 1 notice containing a copy of the rule in the official state newspaper and take any other step it considers feasible to make the rule known to persons who will be affected by it.

For other rules related to the UB Law, DOB would be allowed to use the emergency rule-making procedures to promulgate rules for the period before permanent rules became effective. However, DOB would not be required to provide evidence of an emergency.

Effective Date

These provisions would take effect on the first day of the third month beginning after publication of the bill.

GENERAL PROVISIONS

39. PROHIBITION ON DUAL EMPLOYMENT BY STATE AGENCIES

Repeal the current law provision which specifies that: (a) no elective state official may hold any other position or be retained in any other capacity with any state agency or authority, except in an unsalaried position or unpaid service with a state agency or authority that is compatible with the official's duties and the emoluments for which are limited to reimbursement for actual and necessary expenses incurred in the performance of those duties; (b) no individual, other than elective state official, who is employed or retained in a full-time position or capacity with a state agency or authority may hold any other position or be retained in any other capacity with an agency or authority from which the individual receives, directly or indirectly, more than $12,000 as compensation for the individual's services during the same year (except that this prohibition does not apply to any such individual who has a full-time appointment for less than 12 months during the time outside of the appointment period); and (c) the Department of Administration shall annually check to ensure that no individual violates these prohibitions and shall order a forfeiture equal to the economic gain realized from the violation from any individual found in violation of these prohibitions.

40. STATE-LOCAL FRINGE BENEFITS STUDY COMMITTEES

Direct the Department of Employment Relations (DER), the Employment Relations Commission (WERC) and the Department of Employee Trust Funds (ETF), if it chooses to participate, to organize and appoint members to committees to study and make recommendations on all of the following: (a) fiscal pressures on local governments arising from personnel costs, including fringe benefits costs; (b) strategies for local governments to control personnel costs, especially health care costs; (c) creating a permanent labor-management partnership team (comprised of representatives of local governments and local government employees) to review issues of common concern and to make policy recommendations to state and local officials; (d) options for local governments to expand their fringe benefit partnerships with state government and other local governments; (e) changes to the interest arbitration process under the Municipal Employment Relations Act, including exempting health insurance coverage from interest arbitration, if an employer offers its employees the local government health insurance plan approved by the Group Insurance Board under Chapter 40 of the statutes; and (f) allowing local government employers to change insurance carriers to the local government health insurance plan approved by the Group Insurance Board under Chapter 40 of the statutes, if the employer offers a pre-determined wage increase to its employees.

The DER, the WERC and ETF, if it chooses to participate, would be required to seek to appoint representatives of local governments and local government employees to the committees. The participating state agencies would be required to submit a report

incorporating the recommendations of the various committees to the Governor and to the Legislature by January 1, 2003.

41. UNIFORM ELECTRONIC TRANSACTIONS ACT

Adopt the Uniform Electronic Transaction Act (UETA), as approved by the National Conference of Commissioners on Uniform State Laws. The bill contains the following provisions:

Definitions. Create the following definitions: (a) agreement; (b) automated transaction (a transaction conducted or performed, in whole or in part, by electronic means or by the use of electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction); (c) computer program; (d) contract; (e) electronic (relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities); (f) electronic agent (a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual); (g) electronic record (a record that is created, generated, sent, communicated, received, or stored by electronic means); (h) electronic signature (an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record); (i) governmental unit (1) an agency, department, board, commission, office, authority, institution, or instrumentality of the federal government or of a state or of a political subdivision of a state or special purpose district within a state, regardless of the branch or branches of government in which it is located; (2) a political subdivision of a state or special purpose district within a state; (3) an association or society to which appropriations are made by law; (4) any body within one or more of the entities specified previously that is created or authorized to be created by the constitution, by law, or by action of one or more of the entities previously specified; or (5) any combination of any of the entities specified as a governmental unit); (j) information; (k) information processing system; (m) record (information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form); (n) security procedure; (o) state (a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States, including an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state); and (p) transaction (an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs).

Applicability. Specify that the bill applies to electronic records and electronic signatures relating to a transaction. Specify that the bill does not generally apply to a transaction to the extent that it is governed by either any law governing the execution of wills or the creation of testamentary trusts, or the Uniform Commercial Code (other than the waiver or renunciation of claim or right after breach and the statute of frauds for kinds of personal property). The bill

specifies that: (a) a transaction subject to the UETA is also subject to other applicable substantive law; and (b) the UETA applies to the State unless expressly provided.

Use of Electronic Records and Signatures. Specify that the bill does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form. The bill applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Specify that whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct. Specify that a party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means and that the right granted by the bill may not be waived by agreement.

Statutory Construction of the Provisions Governing Electronic Transactions. Specify that provisions of the bill be construed and applied: (a) to facilitate electronic transactions consistent with other applicable law; (b) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and (c) to effectuate its general purpose to make uniform the law with respect to electronic transactions among states enacting laws substantially similar to the Uniform Electronic Transactions Act as approved and recommended by the National Conference of Commissioners on Uniform State Laws in 1999.

Legal Recognition of Electronic Records. Require that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form and that a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation. Specify that if a law requires a record to be in writing, an electronic record satisfies that requirement in that law and if a law requires a signature, an electronic signature satisfies that requirement in that law.

Provision of Information in Writing. Require that if parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, a party may satisfy the requirement with respect to that transaction if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt. Specify that an electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

Presentation of Records. Require that if another law requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, then: (a) the record must be posted or displayed in the manner specified in the other law; (b) the record shall be sent, communicated, or transmitted by the method specified in the other law; and (c) the record must contain the information formatted in the manner specified in the other law. Specify that if a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

Specify that in regard to providing information in writing and presenting records, the requirements of the bill may not be varied by agreement, but: (a) to the extent another law requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement that the information be in the form of an electronic record capable of retention may also be varied by agreement; and (b) a requirement under another law to send, communicate, or transmit a record by 1st-class or regular mail or with postage prepaid may be varied by agreement to the extent permitted by the other law.

Attribution and Effect of Electronic Records. Create provisions related to the attribution and effect of electronic records and electronic signatures. Specify procedures related to a change or error in an electronic record in a transmission between parties to a transaction for: (a) parties that agreed to use security procedures to detect changes or errors and only one party has conformed to the procedure; or (b) individuals. For all other parties, specify that the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any. Specify that procedures related to changes or error for individuals and for parties other than those that agreed to use security procedures may not be varied by agreement.

Notarization and Acknowledgement. Specify that if a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to administer the oath or to make the notarization, acknowledgment, or verification, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Retention of Records. Specify that if a law requires that a record be retained, the requirement is satisfied by retaining the information set forth in the record as an electronic record which: (a) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and (b) remains accessible for later reference. The bill specifies that a requirement to retain a record does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received. Specify that if a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, a person may comply with that law by using an electronic record that is retained in accordance with provisions of the bill. Specify that if a law requires retention of a check, that requirement is satisfied by retention of an electronic record containing the information on the front and back of the check in accordance with provisions of the bill. Specify that a record retained as an electronic record satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of the bill, specifically prohibits the use of an electronic record for the specified purpose. Under the bill, a governmental unit is not precluded from specifying additional requirements for the retention of any record subject to the jurisdiction of that governmental unit.

Admissibility of Records in Evidence. Specify that in a proceeding, a record or signature may not be excluded as evidence solely because it is in electronic form.

Automated Transactions, Sending and Receipt of Records and Transferable Records. Create provisions related to the formation of contracts by interaction of electronic agents, specifying what constitutes sending and receipt of an electronic record, the timing and place of sending and receiving an electronic record and the transfer and transferability of electronic records.

Agency Rules. Delete the responsibility for the Department of Financial Institutions to promulgate rules related to electronic forms and electronic signatures for records submitted to a governmental unit. Specify that unless otherwise provided by law, with the consent of a governmental unit in Wisconsin that is to receive a record, any record that is required by law to be submitted in writing to that governmental unit and that requires a written signature may be submitted as an electronic record, and if submitted as an electronic record may incorporate an electronic signature. Require the Department of Administration to promulgate rules concerning the use of electronic records and electronic signatures by governmental units, which will govern the use of electronic records or signatures by governmental units, unless otherwise provided by law. Create a nonstatutory provision, specifying that DOA is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Specify that DOA and the Secretary of State must jointly promulgate rules establishing requirements that, unless otherwise provided by law, a notary public must satisfy in order to use an electronic signature for any attestation. Specify that the joint rules be numbered as rules of each agency in the Wisconsin Administrative Code. Create a nonstatutory provision specifying that the Secretary of State and DOA must promulgate initial rules related to notary publics to become effective no later than January 1, 2004.

Miscellaneous Provisions. Specify that if a governmental unit adopts standards regarding its receipt of electronic records or electronic signatures, the governmental unit must promote consistency and interoperability with similar standards adopted by other governmental units in Wisconsin and other states and the federal government and nongovernmental persons interacting with governmental units. Specify that any standards adopted may include alternative provisions if warranted to meet particular applications.

Exclude records governed by the electronic transaction and records provisions of the bill from current law provisions related to photographic copies of business records as evidence and the admissibility of duplicates.

Initial Applicability. Specify that provisions related to electronic transactions and records first apply to electronic records or electronic signatures that are created, generated, sent, communicated, received, or initially stored on the effective date of the bill.

42. REQUIREMENTS PERTAINING TO THE SALE OF MUNICIPAL UTILITY PROPERTY

Authorize municipalities to sell or lease any complete public utility plant owned by the municipality in any manner the municipality considers appropriate. Eliminate the following

requirements that currently pertain to such sales or leases: (a) a majority of the members of the municipality's governing body must adopt, at a regular meeting, a resolution or ordinance that summarizes the preliminary agreement with the buyer or lessee; (b) the preliminary agreement must fix the price of the sale or lease, unless DOT or the PSC fixes a greater price; (c) the municipality must submit the preliminary agreement to DOT or the PSC, which must determine if the sale or lease is in the public's interest and, if so, must fix the price and terms of the sale or lease; (d) a referendum, preceded by a public notice that includes a description of the property, a summary of the preliminary agreement, the price of the sale or lease, and the terms of the sale or lease, is conducted where a majority of those voting approve the sale or lease; (e) the sale or lease must be consummated within one year of the referendum, unless DOT or the PSC approve an extension, or the sale or lease is void; and (f) an escrow fund may be established to hold, administer and distribute any sale or lease proceeds necessary to cover future principal and interest payments on any outstanding revenue or mortgage bonds. Provide that the preceding requirements pertaining to DOT and PSC oversight continue to apply to the sale or lease of municipal power district properties and to contracts between municipalities and privately owned public utilities, motor bus systems and other public transportation systems. Under current law, DOT reviews sales and leases of transportation systems and the PSC reviews sales and leases of joint local water authorities, heat, light, water or power companies, natural gas companies, telecommunications companies, commercial mobile radio service providers and toll bridges.

HEALTH AND FAMILY SERVICES -- HEALTH

43. RELEASE OF HEALTH CARE INFORMATION

Repeal a 1997 Wisconsin Act 231 provision that requires DHFS to prohibit persons who purchase health care data from re-releasing individual data elements of health care data files. Repeal the requirement that DHFS promulgate rules that define "individual data elements" for the purpose of enforcing this prohibition. DHFS staff indicate that the Department currently allows vendors who provide value-added information and programming to the Bureau of Health Information to re-release information to secondary customers. DHFS rules require initial purchasers to seek approval from DHFS to release the data, and purchasers of that data to sign use agreement forms. The elimination of the prohibition against the re-release of health care data would allow DHFS to continue to monitor the sale of data to vendors through administrative rules.

44. GUARDIANSHIP

Authorize a juvenile court to appoint any person, rather than a relative as provided in current law, as the guardian of a child or juvenile who has been adjudged to be in need of protection or services. Authorize the court to place the child in a guardian's home immediately after the child has been adjudged to be in need of protection or services and placement of the child in the guardian's home has been recommended or requested. Current law prohibits a court from placing the child in the home of the guardian unless the child has been placed outside of his or her home under a court order for a cumulative total period of one year or longer. Specify that, if the court finds that a juvenile is in need of protection or services under Chapter 938, the court, instead of or in addition to any other imposed disposition, may place the juvenile in the home of the juvenile's guardian.

Authorize DHFS to make monthly subsidized guardianship payments to any court-appointed guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment, who is a resident of Milwaukee County and if: (a) the child is 12 years or older, the child has been placed outside of his or her home for 15 of the most recent 22 months and the parental rights of both of the child's parents or of the child's only living parent have been terminated, or the court has found that reasonable efforts have been made towards reunification, while assuring that the child's health and safety are the paramount concerns, unless reasonable efforts are not required, but that reunification of the child with the child's parent or parents is unlikely or contrary to the best interests of the child; or (b) DHFS has determined that providing monthly subsidized guardianship payments to the guardian is in the best interests of the child and the determination has been confirmed by the court.

Specify that community aids funds can be used to support monthly guardianship payments and that these payments will be determined by a rate established by DHFS based on the average amount of GPR expended for foster care per child in foster care in Milwaukee County in 2000-01. Further, direct DHFS to apply for a waiver from the federal Department of Health and Human Services to allow the state to claim care and maintenance costs of children in subsidized guardianship for federal Title IV-E reimbursement. If approved, the monthly guardianship payment rate would be made according to the terms of the waiver, rather than as described above. Currently, relative guardians are eligible for long-term kinship care payments of $215 per month for providing maintenance and care for the child.

Authorize a court to appoint a guardian and transfer guardianship and custody of the child to a guardian as an additional dispositional option if the rights of both parents have been terminated and if a guardian has not been appointed. Modify current statutory provisions regarding the role and responsibility of the state in providing benefit payments to include subsidized guardianship payments.

Require the court, in appointing a person as a child's guardian, to find that reasonable efforts have been made to prevent the removal of the child from the home, in addition to finding that reasonable efforts have been made towards reunification, as provided under current law.

For a child who has been placed, or continued in a placement, outside of his or her home for less than six months, require a court to order the agency or person who is primarily responsible for providing services to the child to file the disposition court report, the permanency plan (if one was prepared) and as much information relating to the appointment of a guardian as is reasonably ascertainable. For a child who has been placed, or continued in a placement, outside of his or her home for six months or more, require the court to order that the person or agency primarily responsible for providing services to the child, as determined under a court order, to file with the court a report containing the written summary of the permanency plan review and as much information relating to the appointment of a guardian as is reasonably ascertainable, as is stated in current law.

45. PETITIONS FOR THE TRANSFER OF CUSTODY AND GUARDIANSHIP

Reduce from two years to one year the time, following the termination of parental rights, after which DHFS could petition a court to transfer the legal custody of a child from the state to a county department if a permanent adoptive placement is not in progress. Make this same change with respect to DHFS petitions to a tribal court to transfer the legal custody of a child from the state to a tribe.

Authorize DHFS, at that time, to petition the court to transfer guardianship of the child from the state to the county department if the county department is authorized to accept guardianship of the child. Specify that, if the county is not authorized to accept guardianship for the child, DHFS would remain the child's guardian. Under current law, DHFS retains guardianship over the child, even if legal custody of the child is transferred to the county department. DHFS currently may petition a tribal court to transfer guardianship of the child back to the tribe.

Specify that these changes would first apply to petitions filed on January 1, 2002, or the day after the bill's publication, whichever is later.

46. PERMANENCY PLANS FOR COURT-ORDERED PLACEMENTS WITH A RELATIVE

Require that agencies prepare permanency plans for each child that is placed in the home of a relative under a court order under the children's code (Chapter 48) or the juvenile justice code (Chapter 938). Specify that this requirement would first apply to children and juveniles who are placed in the home of a relative under a court order on the bill's general effective date.

For children and juveniles who are living in the home of a relative under a court order on the day before the bill's general effective date, require the agencies to file permanency plans with the court for at least 33% of those children or juveniles by November 1, 2001, at least 67% of those children or juveniles by January 1, 2002, and 100% of those children and juveniles by March 1, 2002, giving priority to those children or juveniles who have been living in the home of a relative for the longest period of time.

Require, rather than permit, DHFS, a county department or a licensed child welfare agency to issue a license to operate a foster home or a treatment foster home to a relative who has no duty to support the child and who requests a license to operate a foster home or treatment foster home for a specific child who is either placed by court order or who is subject to a voluntary placement agreement. Require, rather than permit, DHFS, a county department or a licensed child welfare agency to license the guardian's home as a foster home or treatment foster home for the guardian's minor ward who is living in the home and who is placed in the home by a court order. As under current law, such relatives who are licensed to operate foster homes or treatment foster homes would be subject to DHFS licensing rules.

47. COURT-ORDERED PLACEMENTS -- AGENCY RECOMMENDATIONS

Require a temporary custody, dispositional, or a change-in-placement juvenile court order that places a child outside the home in a placement recommended by an intake worker or agency that is primarily responsible for providing services to the child to include a statement that the court approves the placement recommended by the intake worker or agency. If the court places a child outside the home in a placement other than a placement recommended by the intake worker or agency, require the order to include a statement that the court has given bona fide consideration to the recommendations made by the intake worker or agency and all parties relating to the placement of the child.

This provision is intended to enable the state to comply with new federal regulations relating to eligibility for federal foster care and adoption assistance funding under Title IV-E of the Social Security Act.

48. SEARCHES FOR BIRTH PARENTS

Eliminate the Department's authority to conduct searches for birth parents or to contract with an agency to conduct such searches when requested to do so by a person, 21 years of age or older, whose birth parent's rights have been terminated or who has been adopted. Instead, authorize DHFS to license child welfare agencies to conduct these searches. Currently, licensed child welfare agencies may conduct these searches, but they need not be licensed to perform this specific function.

Eliminate the maximum fees that can be charged for the cost of conducting a search for a person's birth parents or for the cost of locating, verifying, purging, summarizing, copying and

mailing requested medical and genetic information on the birth parents to the requester. Currently, these fees are limited to $100 and $150, respectively.

Specify that these provisions would take effect on January 1, 2002, or on the day after publication of the bill, whichever is later.

HEALTH AND FAMILY SERVICES -- COMMUNITY AIDS AND SUPPORTIVE LIVING

49. HEALTH FACILITY LICENSING AND ENFORCEMENT

Modify and standardize statutes relating to health facility licensing and enforcement. These changes would affect nursing homes, community-based residential facilities (CBRFs), adult family homes (AFHs), residential care apartment complexes (RCACs), hospitals, home health agencies (HHAs), rural medical centers (RMCs), hospices and treatment facilities for mental illness, developmental disability, and alcohol and other drug abuse. For the purpose of this summary, the term "licenses" refers to certificates, registrations and approvals, as well as licenses that authorize the operation of these health facilities.

Revocation Standards and Procedures. For the entities listed above, authorize DHFS to revoke licenses if any of the following apply.

a. DHFS has imposed a sanction or penalty on the entity and the entity continues to violate or resumes violation of an applicable provision of licensure, a rule promulgated under Chapter 50 or 51, or an order issued relating to a violation that forms any basis for the sanction.

b. The entity or person under the supervision of the entity has substantially violated a provision of licensure or rule under Chapter 50 or 51 or an order issued relating to a violation.

c. The entity or a person under the supervision of the entity has acted in relation to or has created a condition relating to the operation or maintenance of the entity that directly threatens the health, safety, or welfare of a resident or patient.

d. The entity or person under the supervision of the entity has repeatedly violated the same or similar provisions of licensure, rules under Chapter 50 or 51 or orders issued related to a violation.

Specify procedures DHFS would use in revoking an entity's licensure. Before any revocation, require DHFS to provide an entity written notice of revocation, the grounds for the revocation, an explanation of the types of sanctions or penalties that DHFS may impose, and an explanation of the process for appealing a sanction. If the revocation is for either reason (a) or

(d) above, require the written notice to be sent at least 30 days before the date of revocation, and authorize DHFS to revoke the license only if the violation remains substantially uncorrected on the date of revocation. Authorize immediate revocation for reasons (b) and (c) above, with written notice, and require immediate revocation for a hospital that acquires another hospital without state approval, as provided under current law.

Permit any entity to contest a revocation, the imposition of a sanction or penalty, or the issuance or terms of a conditional license, by submitting a written request for an administrative hearing on the matter to DHFS within 10 days of receiving the notice to revoke. Require DHFS to hold a prehearing conference within 30 days after receipt of the request and send notice of the hearing to the entity. Retain the current provision that allows for judicial review of any final administrative hearing decision. As under current law, require that any petition for judicial review be filed within 15 days after receipt of notice of the final agency determination. Specify that entities could not contest the issuance of a notice of violation or the requirement to submit a plan of correction under these procedures.

Specify that revocation would become effective on the date set by DHFS in the notice of revocation upon final action after the hearing under chapter 227, or after court action if a stay is granted, whichever is later. Permit DHFS to delay the date of revocation if a delay is needed to permit an orderly relocation of the entity's residents or patients.

Under current law, DHFS may revoke the license of all of these entities, except RCAC registrations. However, the standards and procedures vary, and in many cases, the process is not defined in statute. In general, current law requires DHFS to provide notice of any revocation and provides for a right to an administrative hearing and judicial review. DHFS may only revoke a RMC license if the RMC fails to submit a required biennial report if DHFS has issued a warning and the report has not been submitted within 60 days of the required date.

Forfeiture Amounts and Procedures. Establish uniform procedures and a range of forfeiture amounts for violations of Chapters 50 and 51 or rules under those chapters for all nine health care entities listed above, except nursing homes, and also apply these uniform procedures and ranges to forfeitures related to noncompliance with certain orders issued to nursing homes, CBRFs, hospitals and home health agencies. Specify that, if DHFS imposes a forfeiture, it must first provide written notice of the penalty, the grounds for the penalty, an explanation of the types of sanctions or penalties that DHFS may impose, and an explanation of the process for appealing a sanction or penalty. Specify that the daily forfeiture amount be not less than $10 nor more than $2,000 for each violation, with each day of violation constituting a separate offense. Currently, the maximum forfeiture penalty for each type of facility is as follows: (a) CBRFs, $1,000; (b) AFHs, $500; (c) nursing homes, $10,000; (d) hospitals and RCACs, $500 (forfeitures are assessed only if the RCAC does not make a required referral to a Family Care resource center); (e) home health agencies, $200; (f) RMCs, $500 in general and $1,000 for impeding investigations; and (g) hospices, $200.

Specify that within the statutory limits, DHFS may, by rule, set daily forfeiture amounts and payment deadlines based on the size of the entity, the seriousness of the violation, and for CBRFs and treatment facilities, the type of CBRF or treatment facility. Authorize DHFS to set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued related to a violation. Authorize DHFS to directly assess a forfeiture by specifying the amount of that forfeiture in the notice. Require an entity to pay the forfeiture to DHFS within 10 days after receipt of notice of assessment or, if the forfeiture is contested, within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order. Require DHFS to remit all forfeitures to the State Treasurer for deposit in the school fund.

Authorize the Attorney General to bring an action in the name of the state to collect any forfeiture imposed if the forfeiture has not been paid following the exhaustion of all administrative and judicial reviews, and specify that the only issue to be contested in any such action would be whether the forfeiture had been paid.

Except for forfeitures relating to treatment facilities, require DHFS to consider the following factors in determining whether a forfeiture is to be imposed and in fixing the amount:

a. The gravity of the violation, including the probability that death or serious physical or psychological harm to a resident or patient will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of the applicable statutes or rules were violated;

b. Good faith exercised by the entity, such as awareness of the applicable statutes and regulations and reasonable diligence in complying with such requirements, prior accomplishments manifesting the licensee's desire to comply with the requirements, efforts to correct and any other mitigating factors in favor of the entity.

c. Any previous violations committed by the entity.

d. The financial benefit to the entity of committing or continuing the violation.

Retain several forfeiture limits for specific violations, such as the $500 limit for a violation of required referrals to resource centers in counties participating in the Family Care pilot program. Retain the current forfeiture limits and procedures for nursing homes, except apply the uniform provisions to nursing home violations of orders to stop admitting new residents.

Conditional Licensure. Authorize DHFS to issue a conditional license to the following entities: (a) CBRFs; (b) AFHs; (c) RCACs; (d) hospitals; (e) home health agencies; (f) rural medical centers; (g) hospices; and (h) treatment facilities. Under current law, DHFS may issue a conditional license to a nursing homes if a Class A or B violation continues to exist. Specify that for the other entities, a conditional license could be issued if a violation of a Chapter 50 or 51 provision or related administrative rule continues to exist. The same procedures and conditions

would apply to these other entities as currently applies to nursing homes. These procedures and conditions are as follows:

a. The issuance of a conditional license revokes any outstanding license.

b. Prior to the issuance of a conditional license, DHFS must establish a written plan of correction that specifies the violations that prevent full licensure and that establish a time schedule for correction of deficiencies.

c. Retention of the conditional license would be conditional on the entity meeting the requirements of the plan of correction.

d. DHFS must send to the entity a written notice of the decision to issue a conditional license, together with the plan of correction. The notice must inform the entity of its right to a case conference before issuance of the conditional license and must inform the entity of its right to an administrative hearing.

e. In order to have a case conference, the entity must, within four working days of notice, send a written request for a case conference to DHFS. DHFS must schedule and hold a case conference in the entity's county within four working days of the request.

f. After the case conference, the entity can request an administrative hearing under the same conditions as described for contesting a revocation or forfeiture.

g. The conditional license can be issued for a period of up to 12 months. DHFS must periodically inspect any entity that is operating under a conditional license. If DHFS finds substantial failure by the entity to follow the plan of correction, DHFS may revoke the conditional license under the standard procedures for revocation (notice, hearing and judicial review).

h. If DHFS determines that the conditional license will be allowed to expire without renewal or replacement, DHFS must notify the entity at least 30 days before expiration of the conditional license. The notice must state the grounds for the expiration and explain the process for appealing the expiration.

Use of License Suspensions. Eliminate the Department's authority to suspend licenses for the following entities: (a) nursing homes; (b) CBRFs; (c) hospitals: (d) home health agencies; (e) RMCs; and (f) hospices. Authorize DHFS to suspend approvals for treatment facilities.

Demonstrate Fit-to-Operate When in Noncompliance. Require nursing homes, CBRFs and hospices that are in substantial noncompliance with federal or state law or regulations, to demonstrate, including by providing financial or other information requested by DHFS, that the entity continues to be fit and qualified to operate, as defined by DHFS by rule. Require DHFS to promulgate rules defining "substantial noncompliance."

Other Sanctions to Remedy Noncompliance. Authorize DHFS to order certain sanctions for certain types of entities when, based on an investigation, a violation is discovered and written notice is provided of the grounds for the sanction, an explanation of the types of sanctions and penalties that DHFS may impose, and an explanation of the process for appealing a sanction or penalty. Authorize DHFS to order the following sanctions.

a. That a person stop operating a CBRF, hospital or home health agency if the entity is without a valid license.

b. That, within 30 days after the date of the order, a CBRF, hospital or HHA terminate the employment of any employed person who operated an entity for which licensure was revoked before issuance of the order.

c. That a CBRF, hospital or HHA stop violating any licensure provision or any rules under Chapter 50.

d. That a CBRF, hospital or HHA submit a plan of correction for violation of any licensure provision or a rule under Chapter 50.

e. That a CBRF implement and comply with a plan of correction previously submitted by the CBRF and approved by DHFS.

f. That a CBRF implement and comply with a plan of correction that is developed by DHFS.

g. That a nursing home, CBRF, or hospital admits no additional residents or patients until all violations are corrected.

h. That a CBRF, hospital or HHA provide training for staff.

Under current law, DHFS may apply these sanctions only to CBRFs. In addition, DHFS may order a nursing home or hospital to suspend new admissions under certain circumstances.

Suspension of Nursing Home Admissions. Eliminate the current requirement that DHFS suspend new admissions to a nursing home if: (a) the nursing home received a class A violation or three or more class B violations in the last 12 months; and (b) a nursing home received a class A violation or three or more class B violations in any 12 month period during the three years immediately preceding the period in (a). Under current law, the suspension begins 90 days after notice if DHFS determines that the violation remains uncorrected.

Grounds for License Denial. Authorize DHFS to deny licensure to any of the nine health care entities if the entity previously had its licensure revoked. Under current law, DHFS is explicitly authorized to deny licensure only to CBRFs for this reason.

Option for Case Conference. Expand the authority for DHFS to hold a case conference with the parties to any contested action to resolve the dispute prior to a formal hearing to the

following entities: (a) hospitals; (b) RMCs; (c) home health agencies; and (d) hospices. Under current law, DHFS may use case conferences to resolve disputes for nursing homes, CBRFs, AFHs and RCACs.

Provisional Licenses. Eliminate the Department's authority to issue a provisional license to RMCs. Reduce from 24 months to 12 months the maximum term for provisional licenses for hospices. Change the name of "provisional" license to "probationary" license for home health agencies and hospices. Under current law, DHFS is required to issue a probationary (or provisional) license for nursing homes, CBRFs and hospices if the applicant has not been previously licensed or is not in operation at time of application. In the case of home health agencies, a provisional license is used to allow a home agency to operate when its facilities are in use or needed for patients, but the home health agency is temporarily unable to conform to all the regulatory rules. For RMCs, current law does not specify the circumstances for issuing a provisional license except that the term of the provisional license is only valid for up to six months.

Effective Date and Initial Applicability. Specify that these provisions would take effect on the first day of the seventh month beginning after the bill's publication, and that the changes would initially apply to licenses issued on, and violations committed, on that date.

50. STUDY FOR CENTRALIZING NURSING HOME AND HOSPITAL CONSTRUCTION PLAN REVIEWS

Require the Department of Administration to conduct a study that reviews the separate responsibilities of DHFS and the Department of Commerce to review capital construction and remodeling plans of nursing homes, community-based residential facilities, hospitals and other medical facilities. Require DOA to present the study to the Governor and the DOA Secretary by June 30, 2002. Specify that the study examine the feasibility of centralizing the construction plan reviews in one of the departments.

51. DELETE OBSOLETE REFERENCE

Delete references to a grant award to the Wisconsin Coalition Against Domestic Violence in the 1999-00 fiscal year.

HEALTH AND FAMILY SERVICES -- FAMILY CARE AND OTHER COMMUNITY-BASED LONG-TERM CARE PROGRAMS

52. CHILDREN'S HOME AND COMMUNITY-BASED WAIVER

Require DHFS to request a federal waiver of federal MA statutes and regulations that are necessary to provide to disabled individuals under 24 years of age, under one program, with uniform administration and service delivery, the services available under several MA community-based waiver programs (COP-W, CIP IA, CIP II and CIP IB), the family support program and early intervention services (birth-to-three) program. Require DHFS to seek enactment of statutory language to implement the waiver within the limits of available federal, state and county funds if DHFS receives the waiver.

The COP-W and CIP II programs provide community-based long-term care services to persons who are 65 years and older and to persons who are physically disabled. The CIP IA and CIP IB programs serve persons who are developmentally disabled. All four of these programs are part of the MA program, and provide a comprehensive set of long-term care services as an alternative to nursing home care. The family support program assists families with a disabled child so that the family can maintain the child in the home, and is funded as a categorical allocation within the community aids appropriation. The early intervention program provides services for children with developmental delays who are up to three years of age. Under this program, Wisconsin supplements federal grant funds with state funds to develop and implement a statewide, comprehensive, coordinated, multidisciplinary interagency program of early intervention services.

53. FAMILY CARE -- REFERRALS TO RESOURCE CENTERS

Repeal the current requirement that DHFS promulgate rules that require hospitals, before discharging a patient who is 65 years of age or older or who has a developmental disability or physical disability and whose disability or condition requires long-term care that is expected to last at least 90 days, to refer the patient to a resource center. Repeal the $500 forfeiture penalty hospitals must pay if they fail to make such a referral, under the rules promulgated by DHFS. Instead, require hospitals to participate in developing and implementing plans for making appropriate referrals to resource centers for persons who are likely to be eligible for the Family Care benefit. As under current law with respect to required referrals, this requirement would only apply if the DHFS Secretary certified that a resource center was available for the hospital and for specified groups of eligible individuals that include persons seeking admission to, or patients of, the hospital.

Require resource centers to annually develop a tentative plan for coordinating appropriate referrals of individuals who are discharged from hospitals serving the geographic

area served by the resource center and who are likely to be eligible for, and to benefit from, the Family Care benefit. Require resource centers to consider any recommendations of the local long-term care council and to work in cooperation with the hospitals in developing the final form of the plan and its implementation. Require local long-term councils to review a tentative plan of the resource center and to provide the resource center any nonbinding recommendations for ensuring cooperation and coordination between the resource center and hospitals

Include persons with developmental disabilities as one of the groups that are required to be referred to a resource center by an adult family home, residential care apartment complex or community-based residential facility for persons seeking admission to these facilities. Under current law, these facilities must make referrals for persons who are 65 years or older or who are physically disabled, if a resource center has been certified as available in that area. These facilities are subject to a forfeiture of up to $500 if a required referral is not made.

54. FAMILY CARE -- SERVICES OF RESOURCE CENTERS AND MISCELLANEOUS CHANGES

Transfer the following responsibilities that are currently assigned to Family Care resource centers to DHFS: (a) informing residents of nursing homes, CBRFs, adults family homes (AFHs) and residential care apartment complexes (RCACs) of the services available at the resource center within six months after the Family Care benefit is available to all eligible persons in the area; (b) provision of the functional and financial screens to any nursing home, CBRF, AFH or RCAC resident who requests a screening; (c) assisting in enrolling in a care management organization (CMO) any nursing home, CBRF, AFH or RCAC resident who is eligible and chooses to do so; (d) offering to provide, and, if the offer is accepted, the provision of the functional and financial screens to any person seeking admission to a nursing home, CBRF, AFH or RCAC to persons who are determined by the resource center to have a condition that is expected to last at least 90 days that would require care, assistance or supervision; (e) provision of protective services or protective placements and elder abuse services through cooperation with the county agency or agencies that provide the services.

Modify the current requirement that residents of nursing homes, CBRFs, adults family homes and RCACs be informed of the services of the resource center within six months after the Family Care benefit is available to limit the requirement to only those residents who are members of a target population served by a CMO that operates in the county.

Define a "family member" as a spouse or an individual related by blood, marriage or adoption within the 3rd degree of kinship and replace current references to "immediate family member" to reflect this new definition, for purposes of meeting the requirement that a certain number of elderly or disabled persons or their family members must be appointed to the local long-term council. Specify that the functional and financial screens prescribed by DHFS be uniform screening tools, and that the financial screen be used to determine the amount the

client must contribute to the cost of care. Specify that, initially, DHFS can contract with a Family Care district, in addition to a county, for serving as a CMO during the initial period in which other entities may not compete for the CMO contract. Clarify that resource centers and CMOs must operate to meet state requirements, in addition to federal requirements, as provided under current law.

55. FAMILY CARE -- EXEMPT CMO CONTRACTORS FROM HOME HEALTH AGENCY LICENSURE REQUIREMENT

Exempt entities that contract with care management organizations (CMOs) to provide services under Family Care from the requirement to be licensed as a home health agency. Under current law, a Family Care CMO is exempt from the home health licensure requirement, but the exemption does not apply to entities that contract with CMOs

56. FAMILY CARE -- FAMILY CARE DISTRICTS

Modify provisions relating to the appointments and terms of members of a Family Care district to: (a) allow the county to appoint only the initial board members, and specify that the board would appoint any future members; (b) reduce the terms of the initial members of the board from three years to one year for five of the initial members, from four years to two years for five of the initial members, and from five years to three years for the remaining members; (c) make initial appointments subject to review and approval by the DHFS Secretary; (d) require the local long-term care council to review the proposed initial members of the board and make a recommendation concerning the appointments to the DHFS Secretary; and (e) limit the number of elected or appointed officials or employees of the county that may be board members to less than one-fourth of the board members.

Require counties to obtain the approval of the DHFS Secretary to create a Family Care district.

Under current law, a county can create a Family Care district that is separate and distinct from the county, to operate either a care management organization or a resource center, but not both. The county appoints the members of the board of the Family Care district, and up to one-fourth of the members of the board may be elected or appointed officials or employees of the county. DHFS does not currently have any review authority for board appointees.

57. FAMILY CARE -- HEARING RIGHTS

Require a person to file a written request for a hearing with the DOA Division of Hearings and Appeals on a matter relating to Family Care within 45 days after the effective date of the matter. Under current law, a person must file the written request within 45 days of the

failure by a resource center or CMO to act on the matter within the time frames specified by rule by DHFS, or within 45 days after receipt of notice of a decision in a contested matter.

In addition, eliminate estate recoveries as one of the matters for which a Family Care client could request a hearing.

58. PREADMISSION REQUIREMENT FOR CBRFS AND RCACS IN NON-FAMILY CARE COUNTIES

Modify preadmission requirements for community-based residential care (CBRFs) and residential care apartment complexes (RCACs) in non-Family Care counties to: (a) require RCACs to inform prospective residents of the county aging unit and the agency in the county that administers the community options program (COP) and to inform the prospective resident of conditions for eligibility for public funding for long-term care services: (b) require CBRFs to refer persons seeking admission to the CBRF to the agency in the county that administers COP. Authorize DHFS to assess a forfeiture of up to $500 for each violation of these disclosure and referral requirements. Permit counties to use COP funding to conduct preadmission consultations for persons who seek admission, or are about to be admitted to, a CBRF. Specify that these provisions would apply to residencies in RCACs and CBRFs sought on or after January 1, 2002.

Under current law, CBRFs and RCACs in counties with a certified Family Care resource center must inform prospective residents of public long-term care resources and must refer persons to the Family Care resource center. The penalty for failing to provide such information or a referral is a forfeiture of up to $500 for each violation.

HISTORICAL SOCIETY

59. REPEAL HISTORICAL SOCIETY ENDOWMENT FUND COUNCIL

Repeal the Historical Society Endowment Fund Council. The ten-member Council was created under 1997 Wisconsin Act 27 along with the creation of the endowment fund. Members have never been appointed to the Council.

INSURANCE

60. MANAGEMENT CONTRACTS

Repeal provisions that enable an insurer that offers a health maintenance organization (HMO), limited service health organization (LSHOs) or preferred provider plan (PPP) to delegate management authority with regard to the HMO, LSHO or PPP to a person other than an officer, director or employee of the insurer if the person exercises the management authority according to the terms of a written contract between the insurer and the person and if the contract is filed with OCI and not disapproved by the Commissioner. Specify that this change would take effect on January 1, 2004.

Current law prohibits a domestic stock or mutual insurance corporation from entering into a contract that has the effect of delegating management authority to a person to the substantial exclusion of the board of the corporation, but makes exceptions to this general prohibition for insurers that offer HMOs, LSHOs and PPPs. Current law defines "management authority" as the authority to exercise any management control of the corporation or its underwriting, loss adjustment, investment, general servicing, production function or other major corporate function.

Companies that enter into contracts to manage these HMOs, LSHOs and PPPs are not subject to regulation by OCI. As a result, they are not required to provide information to OCI. However, the insurance plans that they manage are still subject to OCI requirements.

LEGISLATURE

61. JCLO REVIEW OF KETTL COMMISSION REPORT

Provide session law language requesting that the Joint Committee on Legislative Organization (JCLO) review the report issued by Commission on State-Local Partnerships for the 21st Century (commonly referred to as the "Kettl Commission") as it relates to state aid provided to counties for human services and justice services. Further, provide that, based on this review, JCLO make recommendations to the Legislature, including recommendations regarding each of the following issues: (a) Which, if any, human services and justice services should become the state's responsibility? (b) What should be the timetable for any state takeover of any human services and justice services? (c) What performance outcomes should be established for any human services and justice services assumed by the state? (d) What state or

local agency or department or other entity should deliver the human services and justice services assumed by the state? (e) How would the state fund any human services and justice services assumed by the state, considering the funds currently available to the counties for these services under the shared revenue program? and (f) Whether any of these human services and justice services should be provided by a private agency or business.

MILITARY AFFAIRS -- AGENCYWIDE

62. REPORT ON THE EFFECTIVENESS OF THE BADGER CHALLENGE AND THE YOUTH CHALLENGE PROGRAMS

Direct the Department to include a report on the effectiveness of the Badger Challenge program and the Youth Challenge programs as part of its 2003-05 biennial budget submission.

The Badger Challenge program, located at Fort McCoy, is a two-phase program for "at risk" 14-16 year olds. Eligibility is open to any youth who is at risk of dropping out of school, regardless of income; however, at least 25% of the enrollees must be TANF eligible. Phase I of the program consists of a six-week residential stay where cadets participate in activities to improve anger management, teamwork, leadership and personal growth. Phase II consists of post-residential mentoring with community volunteers.

The Youth Challenge program is a 22-week residential program for youth aged 16 to 18 who are high school dropouts or habitual truants who will not graduate from high school. The goal of the program is to aid these youth in learning life skills, increasing their employment potential and preparing them for the high school equivalency degree exam. The program was originally authorized by 1997 Wisconsin Act 237.

MILITARY AFFAIRS -- EMERGENCY MANAGEMENT

63. LEVEL A HAZARDOUS MATERIALS RESPONSE TEAM TRAINING AND REPORTING REQUIREMENTS

Clarify that each Level A regional emergency response team must meet the "highest" standards for hazardous materials response. Newly require each team to have at least one

member who is trained in each specialty areas established by the National Fire Protection Association's under its NFPA 472 standard. These specialty areas are tank car training, cargo tank training, intermodal tank training, flammable liquids bulk storage training and flammable gases bulk storage training.

Require each Level A regional emergency response team that receives state funding to file an annual financial report with the Adjutant General, in a format prescribed by the Department, no later than 90 days after the end of the fiscal year of the team's sponsoring public agency

NATURAL RESOURCES -- DEPARTMENTWIDE

64. RENAME DIVISION OF LAND

Change the name of the Division of Land to the Division of Land and Forestry.

65. WILD RICE LICENSE EXEMPTION

Eliminate the exemption for recipients of old-age assistance and members of their immediate families from the licensing requirements for wild rice harvesting. Instead, provide the exemption from licensing requirements to persons who are at least 65 years old and their immediate families. The meaning of "old-age assistance" under current law is unclear; this provision would eliminate an exemption DNR has found unworkable and would instead create a benefit for individuals who are at least age 65 and their immediate families.

NATURAL RESOURCES -- FISH, WILDLIFE AND RECREATION

66. ELK HUNTING

Authorize the DNR to establish an elk hunting season, and to otherwise regulate the hunting of elk in this state. Expand the definition of "game animals" to include any wild animal specified by DNR. Allow both residents and nonresidents to be issued elk hunting licenses, but allow DNR to make up to 99% of elk hunting licenses each year available only to residents. Require individuals to pay a non-refundable processing fee of $10 (including a 25¢ issuing fee) to apply to purchase an elk hunting license. Departmental revenues from the $10 processing fee

would be deposited to the fish and wildlife account. Authorize DNR to select at random who would be issued a license each year if the number of applicants exceeds the number of licenses available. A hunter must have successfully completed an elk hunter education course (either in Wisconsin or in another state) to be issued a license.

Require DNR to establish an elk hunter education course, and prohibit DNR from assessing a fee for this course. Direct that the hunter education course include all of the following: (a) history and recovery of elk in both Wisconsin and the United States; (b) elk census and population estimation methods used in this state; (c) elk biology and disease prevention; (d) elk hunting techniques and hunter ethics; (e) elk hunting zones; (f) rules promulgated by DNR concerning elk hunting; and (g) Native American hunting. Individuals that complete this course would receive a certificate of accomplishment from the DNR.

Permit DNR to limit the number of elk hunters and elk harvested in any area of the state. Allow DNR to establish by administrative rule closed zones where elk hunting is prohibited.

Fees for an elk hunting license would be $100 for residents and $500 for nonresidents (including a 75¢ issuing fee and a $1 wildlife damage surcharge). Make elk damage eligible for the wildlife damage claims and abatement program if elk hunting is authorized by DNR. A replacement elk hunting license would cost $25. Carcass and back tags (which must be displayed while hunting) would be issued to each person who purchased an elk hunting license. Create an option where any applicant for an elk hunting license may, in addition to paying the fee charged for the license, elect to make a voluntary contribution of at least $1 to be used for elk research. Create an appropriation where all monies received from the sale of elk hunting licenses and from voluntary contributions would be used for administering elk hunting licenses, for elk management and research activities, and for the elk hunter education program. No estimation of revenues is made. The Clam Lake herd is currently estimated to have 90 elk. The Department projects that a limited bull-only hunting season may be able to take place when the population reaches 150 elk.

Allow the hunting of elk in state parks if DNR has authorized by rule elk hunting in the state park. Permit the removal of lawfully killed elk to an adjoining state, governed by the same requirements as for transportation of deer. Require any person who kills an elk to immediately attach a current validated elk carcass tag to the ear or antler of the elk. The elk must be registered in the manner required by the DNR. The carcass tag may be removed when the elk is butchered, but the person who obtained the elk must retain all tags until the meat is consumed (unless the meat is received as a gift).

Individuals could only be issued an elk hunting license once during his or her lifetime, and the license could be used during only one elk hunting season. The license would authorize the hunting of elk by bow and arrow or by firearm. The license would also authorize a state resident who is eligible for a crossbow permit under current law due to physical disabilities to hunt elk. Shining elk while hunting or possessing weapons would be prohibited. A warden

would be permitted to kill a dog found running, injuring, causing injury to, or killing an elk if immediate action is necessary to protect the elk from injury or death.

No person would be allowed to have possession or control of the green head or green skin of an elk beginning 30 days after the close of the elk hunting season until the opening of the following season. In addition, unless authorized by the DNR, no person would at any time be allowed to have possession or control of an elk head in the velvet, or an elk skin in the red, blue, or spotted coat. These provisions would not apply to the head and skin of any elk lawfully killed, when severed from the rest of the carcass. Any elk from which the antlers had been removed, broken, shed, or altered so as to make determination of the legality of the elk impossible would be an illegal elk if the elk was taken during an open season for hunting only antlered elk or during an open season for hunting antlerless elk.

For hunting elk without a valid license, possessing an elk that did not have a carcass tag attached, or for possessing an elk during the closed season, a fine would be levied of not less than $1,000 nor more than $15,000, or imprisonment for not more than six months or both for the first violation. Subsequent violations would be subject to a fine of not more than $20,000 or imprisonment of not more than one year or both. In addition, the court would be required to revoke all hunting and trapping approvals issued to the violator, and prohibit the issuance of any new hunting or trapping approvals to this person for five years. Any other violation relating to elk hunting or registration would be subject to a forfeiture of not more than $5,000. In addition, allow the DNR to bring a civil action in the name of the state for the recovery of damages against any person killing, wounding, catching, taking, trapping or possessing in violation of regulations elk for not less than $2,000.

Prohibit the keeping of wild elk on game farms, deer farms, or in wildlife exhibits. Captive elk farms would continue to be regulated by the Department of Agriculture, Trade, and Consumer Protection under Chapter 95 of statutes.

67. MASTER HUNTER EDUCATION PROGRAM

Authorize DNR to establish and supervise the administration of a master hunter education program. The program would provide instruction on (a) principles of wildlife management; (b) responsibilities of hunters to landowners; (c) the wildlife damage claims and abatement program; (d) provisions concerning the removal of wild animals; and (e) hunting ethics and firearms safety. The program would include classroom instruction, home-study, volunteer work for landowners, and firearm proficiency testing. Allow DNR to appoint volunteer directors and instructors on county, regional, and statewide levels as necessary.

Allow DNR to establish the fee for the course by administrative rule. An instructor may retain up to 50% of the fee as compensation to defray expenses incurred as a result of conducting the course. The instructor would remit the remaining portion of the fee, or, if nothing is retained, the whole fee to DNR for deposit in a PR-continuing appropriation to

support the costs of the program. Individuals who successfully complete the program would be issued a certificate of accomplishment; duplicate certificates would be issued for a $2 fee. No estimate of revenue is made.

68. REQUIREMENTS FOR PERMIT ISSUANCE

Remove the requirement that the agent who issues licenses and permits on behalf of DNR must also sign the issued permit. Also, eliminate the requirement that hunting and fishing stamps must bear the signature of the holder of the stamp. This provision would remove language from statutes that conflicts with automated license and stamp issuance under the ALIS system. Under current law, DNR also issues certain tags to license and permit holders that must be attached in a manner required by DNR. Current law specifies that DNR must provide all required tags. The bill would eliminate that requirement, allowing DNR more flexibility to issue tags through agents or the ALIS system.

NATURAL RESOURCES -- FORESTRY AND PARKS

69. STATEWIDE TRAIL SYSTEM

Require DNR to submit a plan to the Governor by July 1, 2002, to accomplish the objective of connecting all state trails. The plan must require DNR to work cooperatively with other state agencies, political subdivisions, federal agencies, and non-governmental organizations to accomplish the plan's objective and must propose a method for obtaining this cooperation. The plan must also include an implementation schedule, a completion date, a description of the costs involved in accomplishing the plan's objective, and a description of how the costs will be funded.

NATURAL RESOURCES -- WATER QUALITY

70. FISH FARM WATER USAGE EXEMPTIONS

Allow fish farms to obtain water from a natural body of water that is not part of a fish farm for use in a fish farm if both of the following conditions are met: (a) the water is transferred directly between the water body and the fish farm by use of a pipe, flume, ditch or

pump (all of which must contain barriers that prevent the passage of fish between them); and (b) any water transferred out of the fish farm after use is returned directly to the natural body of water from which the water was obtained.

Require that no person may divert water from a stream without a permit if the diversion is for an "agricultural purpose," and provide the same guidelines for the use of water as are allowed under current law for irrigation and agriculture. The bill defines an "agricultural purpose" as aquaculture, beekeeping, dairying, egg production, feedlots, grazing, arboriculture, horticulture, floriculture, plant nurseries and green houses, raising of livestock, raising of poultry, fur farming or growing of vegetables, fruits, nuts, berries, grains, grass, sod, mint or seed crops.

Exempt the use of land for "agricultural purposes," (rather than for agricultural uses of land under current law) from the requirement to obtain a permit for the following activities: (a) to construct, dredge or enlarge any artificial waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection with an existing navigable stream, lake or other navigable waters, or where any part of the artificial waterway is located within 500 feet of the ordinary high-water mark of an existing navigable stream, lake or other navigable waters; (b) to connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway with an existing body of navigable water, for navigation or any other purpose; or (c) to grade or otherwise remove top soil from the bank of any navigable stream, lake or other body of navigable water where the area exposed by such grading or removal will exceed 10,000 square feet.

71. WATER POLLUTION DISCHARGE PERMIT VARIANCE TO WATER QUALITY STANDARDS

Make the following two changes related to the issuance of a variance to a water quality standard in a water pollution discharge elimination system (WPDES) permit required for a person who discharges pollutants into the waters of the state from a confined source: (a) change the maximum term for a variance to a water quality standard from three to five years; and (b) require a permittee to submit an application for renewal of its variance with the application for reissuance of its discharge permit. Currently, DNR sets water quality standards for the waters of the state. Water pollution discharge permits contain requirements to meet one or more water quality standards for the water body into which the permittee discharges pollutants. Permittees may request, and under specified circumstances, DNR may grant a variance to a water quality standard. Currently, permittees may follow certain procedures to request a renewal of a variance, but the timing of submittal of the application for renewal is not specified.

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

72. RECYCLING -- REPORT TO PROPOSE LOCAL GRANT FORMULA CHANGE

Require DNR to submit to DOA, by September 15, 2002, a proposal for changing the method for determining the amount of financial assistance under the municipal and county recycling grant program to encourage regional recycling.

73. AIR MANAGEMENT -- GENERAL CONSTRUCTION PERMITS

Authorize DNR to promulgate administrative rules that specify the types of stationary sources of air emissions that may obtain general construction permits. A general construction permit may cover several similar stationary sources. It would be used instead of issuing an individual construction permit for each source covered by the general construction permit. Examples of categories for which a general construction permit might be created would include crushers, package boilers, degreasing units, dry cleaners and hot-mix asphalt plants.

74. BROWNFIELDS -- LOCAL GOVERNMENT NEGOTIATION AND COST RECOVERY PROCESS

Make a number of changes in the process through which local governments that own contaminated property are currently authorized to negotiate with parties responsible for environmental pollution about how the contamination will be remedied and how much the various parties that are responsible for the contamination will contribute toward the investigation and remedial action costs. Currently, an umpire conducts the negotiations. If an agreement is reached, it is binding on the parties. If an agreement is not reached, the umpire makes a recommendation that may be accepted or rejected by the parties. If the local government accepts the recommendation and another party rejects the recommendation, the local government may sue that party to attempt to recover a portion of the investigation and remedial action costs; and if the local government then recovers an amount equal to or exceeding the amount that the party would have paid under the umpire's recommendation, the local government may recover interest and litigation costs. The changes in the bill include:

Applicability. Expand the applicability of the negotiation and cost recovery process so that a local government may use it for a site or facility that it does not own if the local government is a responsible party at the site or facility (meaning it caused some of the contamination) and if both of the following apply: (a) the local government commits itself, by passing a resolution of its governing body, to paying more than 50% of the amount of financial assistance received for the site or facility from the total cost of investigation and remedial action for the site or facility

and (b) if the site or facility is a landfill, the landfill is closed. Currently, the process is available only for a site or facility owned by a local government.

Specify that "financial assistance" as used in the calculation in (a) above would mean money, other than a loan, provided by the state to pay a portion of the cost of investigation and remedial action for a site or facility, but does not include money provided by the state because the state is a responsible party at a site or facility. Specify that "remedial action" would mean action that is taken in response to a discharge of a hazardous substance to restore the environment and minimize the harmful effects of the discharge on the air, lands and waters of the state, including actions taken immediately after the discharge occurs.

Require that if the site or facility is owned by a local government, and is a landfill, it must be a closed landfill. Currently, the process is available to a landfill owned by a local government.

Transporter Responsibilities. Require a transporter (defined currently and in the bill as a person who accepts or accepted a hazardous substance for transport to a site or facility) who is notified by certified mail by a local government that the transporter is a responsible party at a site or facility to provide records about the transport and disposal of waste at the site or facility. The transporter would be required to submit the records to the local government within 90 days of receiving the request. If any of the records requested by the local government were lost or destroyed before the transporter received the notice of request from the local government, the transporter would be authorized, within 90 days of receiving the request, to submit an affidavit that includes: (a) a statement that the records are no longer available; (b) a statement that the transporter will cooperate by providing depositions, statements and other materials sought by the local government or the allocator of costs among the responsible parties, that will help allocate responsibility for the costs of investigation and remedial action at the site or facility; and (c) a description of the process used by the transporter to search for the records. The transporter would be required to provide depositions, statements and other materials to aid in the process of allocating responsibility for the costs of investigation and remedial action at the site or facility. If a transporter discovers additional records more than 90 days after receiving a request from a local government, it would be required to immediately submit the records to the local government, along with an explanation of why the records were not submitted earlier.

Under the bill, if a transporter complies with the requirement to provide requested records to the local government, the local government or other person who allocates costs among the responsible parties at a site or facility may not allocate to the transporter more than 15% of the costs allocated to responsible parties. If a transporter does not comply with the requirement to provide requested records, or provides false information, the allocator of costs shall allocate to the transporter more than 15% of the costs allocated to responsible parties. If a transporter provides the requested records after the 90-day deadline for providing the information and provides an explanation of why the information was not provided sooner, the allocator of costs is given the discretion to allocate to the transporter less than 15% of the costs allocated to responsible parties.

Compliance with Identification of Responsible Parties. Authorize a local government to bring an action in Circuit Court to comply with the bill's requirement that a transporter provide records, or with the current law requirement that a person who generated, transported, treated, stored or disposed of a hazardous substance that may have been disposed of or discharged at the site or facility provide access to certain records about the site. The Court would be authorized to require a person who fails to provide the requested records to pay costs and reasonable attorney fees.

DNR Approval of Remedial Action Plan. Require a local government to prepare a remedial action option report that identifies the local government's preferred remedial option. The local government would be required to submit the report and a list of responsible parties to DNR. DNR, instead of the local government currently, would hold a public hearing to receive comments on the report and list. DNR, instead of the local government, would solicit testimony on whether the preferred remedial option is the most cost effective method for meeting the standards for remedial action contained in DNR rules. DNR, rather than the local government, would be required to accept written comments for 30 days after the public hearing.

No later than 90 days after the end of the written comment period, DNR would be required to issue an approval of a remedial option, taking into account the local government's preferred remedial option, written comments and the comments received at the public hearing. DNR would also be required to issue a list of responsible parties within the same 90 days, and to make any appropriate revisions to the list submitted by the local government. Currently, the local government submits a preliminary remedial action plan to DNR for approval after the local government completes the public hearing process. Under the bill, if DNR does not issue an approval decision within the required 90 days, the local government's preferred remedial option would be approved and considered to be the Department's decision. A person could request a contested case hearing under Wisconsin Statutes section 272.42 and the administrative decision would be subject to judicial review under s. 227.52 to 227.58, but the decision regarding the approved remedial option would not be subject to other administrative or judicial review.

Cost Allocation. Authorize a local government to appoint a person to make a cost allocation among the responsible parties at a site or facility. Current law does not specify a cost allocation process but generally includes in the negotiation process the authority for local governments and responsible parties to negotiate the contribution of funds for the design and implementation of the remedial action plan. Under the bill, if a local government chooses to use a cost allocator, the allocator must submit a preliminary cost allocation to the local government no later than 90 days after DNR approves a remedial option. If the local government does not use a cost allocator, the local government must prepare a preliminary cost allocation within the same time period.

Under the bill, the local government would be required to hold a public hearing on the preliminary cost allocation. The local government would be required to mail a notice of the public hearing to all of the listed responsible parties at least 14 days before the hearing and to

publish notice of the hearing in a local newspaper. The local government would have to accept comments on the cost allocation for 30 days after the close of the public hearing.

The allocator or the local government, whichever one prepares the preliminary cost allocation, would be required to make a final cost allocation decision, taking into account the written comments and comments received at the public hearing, and provide the cost allocation decision to the local government and the responsible parties no later than 90 days after the close of the public comment period after the public hearing.

Offer to Settle. Require the local government to provide an offer to settle based on the cost allocation decision to each of the listed responsible parties. A responsible party would be required to notify the local government if it accepts the offer to settle. If a responsible party rejects the offer, he or she would be required to notify the local government, in writing, of the basis for the rejection no later than 30 days after receiving the offer to settle. When the local government receives the notice of rejection, it may request DNR to select an umpire.

Selection of Umpire. Require that umpires on the list DNR is required to maintain be environmental experts, in addition to the current requirement that umpires be competent, disinterested and qualified.

Negotiation Process. Specify that the agreement that the umpire shall attempt to reach between the local government and the responsible parties shall be for the contribution of funds. Delete the requirement that the agreement shall also relate to the design and implementation of the remedial action plan. (Under the bill, as described earlier, DNR would approve the remedial option that will be implemented at the site or facility.) Further, delete the current provision requiring the local government to cease action if no responsible parties intend to participate in negotiations.

Specify that if the local government and the responsible parties are not able to reach an agreement through negotiation, the umpire shall make a recommendation regarding the contribution of funds for investigation and remedial action. The umpire would be required to submit the recommendation to the local government and all affected responsible parties, in addition to DNR currently. The umpire would be required to submit the recommendation within 60 days, instead of 20 days currently, after the end of the negotiation period.

Compliance. Direct a responsible party that accepts an offer to settle to comply with the offer. This would be in addition to the current requirement that a responsible party that enters into an agreement with a local government or accepts the umpire's recommendation must comply. A local government would be entitled to recover litigation expenses and interest if a responsible party accepts an offer to settle and does not comply with the requirements.

Liability for Cleanup Costs. Specify that the local government's current right to sue noncooperating responsible parties to cover a portion of the investigation and remediation costs would apply if the remedial action specified in an agreement or an umpire's recommendation had begun, instead of currently where the remedial action is completed. A responsible party

that is liable for a portion of costs would be liable for costs "that have been or will be" incurred by a local government for remediation under an agreement or an umpire's recommendation. When a local government takes action to recover costs, the liability of transporters would be calculated separately and would not be included in the current calculation that noncooperating responsible parties would be responsible for the percentage of the total investigation and remediation costs that equals the percentage of that party's contribution to the environmental pollution resulting from the discharge or disposal of hazardous substances at the site or facility. Before calculating the liability of responsible parties from which it is possible to collect, state financial assistance for a site or facility would have to be applied toward the amount that cannot be collected from a responsible party that is unidentifiable, deceased, insolvent or a dissolved corporation.

75. LOCAL GOVERNMENT LIABILITY EXEMPTION

Modify the local government liability provisions which currently exempt a local government that acquires property in specified ways, such as through tax delinquency proceedings and condemnation, from environmental liability under the hazardous substances spills law if certain requirements are satisfied. The bill would make the following changes:

a. Apply the local government liability exemption to land acquired by local governments with funds from the Warren Knowles-Gaylord Nelson stewardship 2000 program, in addition to acquisition with funds from the original Warren Knowles-Gaylord Nelson stewardship program.

b. Exempt a local government from solid waste management standards and other legal requirements relating to solid waste (such as related to monitoring, maintenance, closing and long-term care) for a property that was acquired in a way that would qualify for the exemption from cleanup requirements. The exemption would not apply to a solid waste facility that was operated by the local government or owned by the local government while it was operated or to landfills.

76. BROWNFIELDS -- ELIMINATE INTERIM LIABILITY EXEMPTION FOR VOLUNTARY PARTIES

Eliminate the interim liability exemption that is currently available to voluntary parties with respect to the existence of a hazardous substance on property if the hazardous substance is discovered in the course of a cleanup and if the voluntary party has obtained insurance to cover the costs of cleaning up hazardous substances discovered in the course of the cleanup.

77. BROWNFIELDS -- NATURAL ATTENUATION AT VOLUNTARY PARTY SITES

Modify the provision that currently exempts a voluntary party from liability under the hazardous substances and solid waste laws if there exists a hazardous substance in groundwater on a property in a concentration that exceeds a groundwater enforcement standard and DNR determines that natural attenuation will restore groundwater quality in accordance with DNR rules. Specify that in addition to the current actions that the voluntary party must take to obtain the liability exemption with the use of natural attenuation, a voluntary party who owns the property must provide access to the property to DNR, DNR's representative, or the representative of an insurance company that has issued insurance required for the voluntary party natural attenuation exemption, for the purpose of determining whether natural attenuation has failed, and if so, to allow someone else to clean up the property. Specify that the voluntary party liability exemption would continue to apply to a voluntary party who no longer owns or controls the property if the person who owns or controls the property fails to provide access to the property for the purpose of determining whether natural attenuation has failed, and to take action to clean up the property.

78. BROWNFIELDS -- VOLUNTARY PARTY LIABILITY EXEMPTION FOR FORMER OWNERS

Modify the voluntary party liability provision that currently allows parties who conduct voluntary cleanups of contaminated property to limit their environmental liability if they meet certain conditions. Change the requirement that the voluntary party must maintain and monitor the property as required by DNR so that it only applies if the voluntary party owns or controls the property. Specify that the voluntary party liability exemption would continue to apply to a voluntary party who no longer owns or controls the property if the person who owns or controls the property fails to maintain and monitor the property as required by DNR. Currently, the liability exemption applies to the voluntary party's successor if the successor maintains the property.

79. BROWNFIELDS -- LIABILITY EXEMPTION FOR SEDIMENT

Specify that the current liability exemption for soil contamination that originates off of the property also applies to hazardous substances in sediments. Currently, a person is exempt from environmental liability under the hazardous substances spills law with respect to the existence of a hazardous substance in soil on property possessed or controlled by the person if the discharge originated from a source off of the property and other specified conditions are satisfied.

80. VOLUNTARY PARTY LIABILITY EXEMPTION FOR PROPERTIES IMPACTED BY OFF-SITE CONTAMINATION

Provide that voluntary parties would be eligible to obtain a full certification of cleanup and exemption from future liability if there is soil contamination (in addition to groundwater contamination currently) that migrated to the property from off-site. Voluntary parties are able to limit their liability for certain cleanups at environmentally contaminated property if they meet certain conditions and if the hazardous substance discharge occurred prior to the date that DNR approved the environmental investigation.

81. LIABILITY EXEMPTION FOR USE OF SPECIAL WASTE UNDER PUBLIC WORKS CONTRACTS

Modify the provision of immunity from liability for the use of special waste in a public works project that was created in 1999 Act 9. Specify that solid wastes that DNR has exempted or waived from the normal disposal requirements under the solid waste facility chapter are considered special wastes and may be characterized by DNR as suitable for beneficial use in public works projects. The current definition of special wastes in the section includes any solid waste that is characterized for beneficial use in public works projects by DNR but does not reference the solid waste facility chapter. The bill would require DNR to maintain a list of special wastes that are suitable for use in specified types of public works projects. Delete the requirement that DNR may characterize a solid waste for beneficial use in public works projects by rule, memorandum of understanding between DNR and other state agencies or local governments or on a case-by-case basis. Authorize DNR to include in the list of special wastes, conditions under which special waste may be used in the public works project in order for the current immunity from liability and exemption from regulation as solid waste to apply. Specify that the DNR list of special wastes would not be an administrative rule.

82. LIST OF CONTAMINATED SITES

Require DNR to compile and make available a list or database of all known sites or facilities that are environmentally contaminated. Delete the requirement that the Department maintain the following lists: (a) an inventory of sites or facilities that may cause or threaten to cause environmental pollution, which must be updated every four years; and (b) a hazard ranking list of sites, with rankings based on the degree to which sites or facilities present a substantial danger to public health or welfare or the environment and the potential urgency of taking remedial action. Require that when DNR determines the sequence for taking state-funded response actions at contaminated sites, it shall consider the degree to which each site or facility presents a substantial danger to public health or welfare or the environment and the potential urgency of taking remedial action at each site or facility, instead of currently considering the hazard ranking of each site or facility.

Modify the current requirement that DNR shall commence remedial action for all sites on the hazard ranking list by January 1, 2000, to instead require that the Department shall commence remedial action at all of the sites or facilities that are determined to present a substantial danger to public health or welfare or the environment by January 1, 2000. DNR last published the inventory of sites causing environmental pollution in October, 1995. DNR last published a hazard ranking list in July, 1994, with 118 sites that were determined to present a substantial danger. As of October, 2000, DNR had initiated state-funded response actions at 74 sites and anticipated starting remedial actions at eight to ten sites in 2001. DNR had also initiated state-funded investigations at over 100 other contaminated sites. There are several hundred sites where remedial actions that are currently underway are being financed by responsible parties.

83. GREEN TIER PROGRAM

Create a "green tier" program within DNR that is intended to improve the environmental performance of public and private entities through the provision of incentives. [See also "Commerce -- Building and Environmental Regulatory Services" relating to a green tier grant program.] Create three "tiers" in the program. The program would include the following components.

General Provisions

Green Tier Council. A Green Tier Council would be created within DNR. The Governor would appoint 15 members representing environmental organizations, businesses, local governments and members that do not represent any of these entities. The terms of members would be for three years. The bill does not specify duties of the Council; however, DNR would be directed to consult with the Council about the operation of the green tier program, priorities for the program and evaluation of the program.

Program Definitions. The bill would create the following program definitions:

a. An "approval" would mean a permit, license or other approval issued by DNR under Chapters 280 to 295 of the Statutes.

b. A "covered facility" or "activity" would mean a facility or activity that is included, or intended to be included, in the green tier program.

c. An "environmental management system" would mean an organized set of procedures to evaluate environmental performance and to achieve measurable or noticeable improvements in that environmental performance through planning and changes in operations.

d. An "environmental management system audit" would mean a review of an environmental management system that is conducted in accordance with standards and

guidelines issued by the International Organization for Standardization and the results of which are documented and communicated to employees of the participant.

e. "Environmental performance" would, unless otherwise qualified, mean the effects, whether regulated under Chapters 160 (groundwater) and 280 to 299 (relating to drinking water, water, sewage, air, solid and hazardous waste, remedial action, mining and general environmental provisions) or unregulated, of a facility or activity on air, water, land, natural resources and human health.

f. An "environmental performance evaluation" would mean a systematic, documented and objective review, conducted by or on behalf of the owner or operator of a facility, of the environmental performance of the facility, including an evaluation of compliance with one or more environmental requirements.

g. An "environmental requirement" would mean a requirement in Chapters 160 and 280 to 299, a rule promulgated under one of those chapters, or a permit, license, other approval, or order issued by DNR under one of those chapters.

h. A "green tier contract" would mean a contract entered into by DNR and a participant in tier III of the program, and that may, with the approval of DNR, be signed by other interested parties, that specifies the participant's commitment to superior environmental performance and the incentives to be provided to the participant.

i. A "regulated entity" would mean a public or private entity that is subject to environmental requirements.

j. "Superior environmental performance" would mean one of the following: (1) that an entity limits the discharges or emissions of pollutants from, or in some other way minimizes the negative effects on, air, water, land, natural resources, or human health of, a facility that is owned or operated by the entity or an activity that is performed by the entity to an extent that is greater than is required by applicable environmental requirements; (2) that an entity minimizes the negative effects on air, water, land, natural resources, or human health of the raw materials used by the entity or the products or services produced or provided by the entity to an extent that is greater than is required by applicable environmental requirements; (3) that an entity voluntarily engages in restoring, enhancing or preserving natural resources; or (4) that an entity helps other entities to comply with environmental requirements or to accomplish the results described in (1) or (2).

k. A "violation" would mean a violation of an environmental requirement.

DNR Powers and Duties. DNR would be required to perform the following activities: (a) to develop model terms that may be used in green tier contracts, to facilitate the tier III process; (b) after consulting with interested persons, to annually establish a list identifying aspects of superior environmental performance that DNR will use to identify which letters of intent it will process under the tier III process in the following year and the order in which it will process the

letters of intent; (c) to encourage small businesses, agricultural organizations, entities that are not subject to environmental requirements, local governments and other entities to form groups to work cooperatively on projects to achieve superior environmental performance; (d) to select a logo for the program; (e) to consult with the Green Tier Council about the operation of the program, priorities for the program and evaluation of the program; (f) to, jointly with Commerce, provide information about environmental management systems to potential participants in the program and to other interested persons; (g) to consult with Commerce about the administration of the program; (h) to collect, process, evaluate and disseminate data submitted by program participants. In addition, DNR would be authorized to promulgate administrative rules for the program, and would be authorized to specify incentives, consistent with federal and other state laws, that the Department could provide to tier III participants

Report to Legislature. DNR would be required to submit a progress report on the green tier program to the Legislature no later than the first day of the 36th month beginning after the effective date of the budget act, and every two years after it submits the first report.

Eligible Program Participants. Any regulated entity could participate in tier I if the entity qualifies under the tier I description. Any public or private entity or group of public or private entities could apply to DNR to participate in tier II or tier III. An applicant for tier II or tier III would be required to identify the facilities or activities that it intends to include in the program.

Penalties. Any person who knowingly makes a false statement in material submitted under the program would be subject to a fine of not less than $10 nor more than $10,000 or imprisonment for not more than six months, or both. An act would be considered to be committed knowingly if it is done voluntarily and is not the result of negligence, mistake, accident, or circumstances that are beyond the control of the person.

Tier I - Eligibility and Process

A regulated entity could participate in tier I of the green tier program if the regulated entity satisfies several requirements. DNR would be required to complete specific activities. Tier I of the green tier program would include the following requirements.

Eligibility. A regulated entity would qualify for participation in tier I for a facility owned or operated by the regulated entity if all of the following happen:

a. The regulated entity conducts an environmental performance evaluation of the facility or submits findings from the facility's environmental management system.

b. If the regulated entity conducts an environmental performance evaluation, the regulated entity notified DNR in writing, no fewer than 30 days before beginning the environmental performance evaluation, of (1) the date on which the evaluation would begin, (2) the site or facility or the operations or practices at a site or facility to be reviewed, and (3) the general scope of the evaluation.

c. If the regulated entity conducts an environmental performance evaluation, the final written report of findings of the evaluation (1) is labeled "environmental performance evaluation," (2) is dated, and (3) includes a plan for corrective action for any violations identified in the evaluation. A regulated entity could use a form developed by the entity, a consultant or DNR for the final written report of findings of the environmental performance evaluation.

d. If the regulated entity submits findings from the facility's environmental management system, the entity's efforts to prevent, detect and correct violations must be appropriate to the size of the regulated entity and to the nature of its business and must be consistent with any criteria used by the U.S. Environmental Protection Agency (EPA) to define due diligence in federal audit policies or regulations.

e. The regulated entity submits a report as required in the following section.

f. At the time of submitting the report described below, the Department of Justice has not, within two years, filed a suit to enforce an environmental requirement, and the DNR has not within two years, issued a citation to enforce an environmental requirement, because of a violation involving the facility.

Report. To participate in tier I, a regulated entity that owns or operates a facility would be required to submit a report to DNR within 45 days after the date of the final written report of findings of an environmental performance evaluation of the facility or within 45 days after the date of findings from the facility's environmental management system. The regulated entity would be required to include all of the following in the report:

a. If the regulated entity conducted an environmental performance evaluation, a description of the evaluation, the name of the person who conducted the evaluation, when it was completed, what activities and operations were examined and what was revealed by the evaluation. If the regulated entity submits findings from an environmental management system, a description of the system, the activities and operations covered by the system, who made the findings and when the findings were made.

b. A description of any violations that were revealed by the environmental performance evaluation or the environmental management system, and the length of time that the violations may have continued.

c. A description of actions taken or proposed to be taken to correct any violations described in (b) above.

d. A commitment to correct any violations identified in (b) within 90 days of submitting the report or according to a compliance schedule approved by DNR.

e. If the regulated entity proposes to take more than 90 days to correct violations, a proposed compliance schedule that contains (1) the shortest reasonable periods for correcting

the violations, (2) a statement that justifies the proposed compliance schedule, and (3) a description of measures that the regulated entity will take to minimize the effects of the violations during the period of the compliance schedule.

f. If the regulated entity proposes to take more than 90 days to correct violations, the proposed stipulated penalties to be imposed if the regulated entity violates the compliance schedule.

g. A description of the measures that the regulated entity has taken or will take to prevent future violations and a timetable for taking the measures that it has not yet taken.

Public Notice and Comment Period. DNR would be required to provide at least 30 days for public comment on a compliance schedule and stipulated penalties proposed in a report described in the previous section. DNR could not approve or issue a compliance schedule or approve stipulated penalties until after the end of the comment period. Before the start of the public comment period, DNR would be required to provide public notice of the proposed compliance schedule and stipulated penalties that: (a) identifies the regulated entity that submitted the report, the facility at which the violation occurred and the nature of the violation; (b) describes the proposed compliance schedule and the proposed stipulated penalties; (c) identifies a contact person at DNR and at the regulated entity for additional information; and (d) states that comments may be submitted to DNR during the comment period and states the last day of the comment period.

Compliance Schedules. DNR would be required to review any proposed compliance schedule submitted by a regulated entity and to approve it as submitted or propose a different compliance schedule. If the regulated entity does not agree to implement a compliance schedule proposed by DNR, the Department would be required to schedule a meeting with the regulated entity to attempt to reach an agreement on a compliance schedule. If DNR and the regulated entity do not reach agreement, DNR could issue a compliance schedule. A compliance schedule would be subject to review under Chapter 227 of the statutes, related to administrative procedures and review.

DNR would not be allowed to approve or issue a compliance schedule that extends longer than 12 months beyond the date of approval of the compliance schedule. The Department would be required to consider the following factors before approving a compliance schedule: (a) the environmental and public health consequences of the violations; (b) the time needed to implement a change in raw materials or method of production if that change is an available alternative to other methods of correcting the violations; and (c) the time needed to purchase any equipment or supplies needed to correct the violations.

Stipulated Penalties. DNR would be required to review any proposed stipulated penalties submitted by a regulated entity and to approve them as submitted or to propose different stipulated penalties. If the regulated entity does not agree to the stipulated penalties proposed by the Department, DNR would be required to schedule a meeting with the entity to

attempt to reach an agreement on stipulated penalties. If the Department and entity do not reach an agreement, there would be no stipulated penalties for violations of the compliance schedule. Stipulated penalties approved by DNR would have to specify a period not longer than six months beyond the end of the compliance schedule, during which the stipulated penalties would apply.

Tier I - Incentives

Deferred Civil Enforcement. For at least 90 days after DNR receives a tier I report, the state could not begin a civil action to collect forfeitures for violations that are disclosed in the report by a regulated entity that qualifies for tier I participation. If a regulated entity that qualifies for tier I corrects violations that are disclosed in a tier I report within 90 days after DNR receives the report, the state could not bring a civil action to collect forfeitures for the violations.

The state could not begin a civil action to collect forfeitures for violations covered by an approved compliance schedule during the period of the compliance schedule if the regulated entity is not violating the compliance schedule. If the regulated entity violates the compliance schedule, DNR could collect any stipulated penalties during the period in which the stipulated penalties apply. The state could begin a civil action to collect forfeitures for violations that are not corrected by the end of the period in which the stipulated penalties apply. The state could begin a civil action to collect forfeitures for the violations, if the regulated entity violates the compliance schedule and there are no stipulated penalties.

If the Department approves a compliance schedule and the regulated entity corrects the violations according to the compliance schedule, the state could not bring a civil action to collect forfeitures for the violations.

The state could begin a civil action at any time to collect forfeitures for violations if any of the following apply: (a) the violations present an imminent threat to public health or the environment or may cause serious harm to public health or the environment; (b) DNR discovers the violations before submission of a tier I report; (c) the violations resulted in a substantial economic benefit that gives the regulated entity a clear advantage over its business competitors; (d) the violations are identified through monitoring or sampling required by permit, statute, rule, regulation, judicial or administrative order, or consent agreement.

Consideration of Actions by a Regulated Entity. If DNR receives a complying tier I report from a regulated entity that qualifies for tier I participation, and the report discloses a potential criminal violation, the Department and the Department of Justice would be required to take into account the diligent actions of, and reasonable care taken by, the regulated entity to comply with environmental requirements in deciding whether to pursue a criminal enforcement action and what penalty should be sought.

In determining whether a regulated entity acted with due diligence and reasonable care, DNR and DOJ would be required to consider whether the regulated entity: (a) took corrective

action that was timely when the violation was discovered; (b) exercised reasonable care in attempting to prevent the violation and to ensure compliance with environmental requirements; (c) had a documented history of good faith efforts to comply with environmental requirements before implementing its environmental management system or before beginning to conduct environmental performance evaluations; (d) has promptly made appropriate efforts to achieve compliance with environmental requirements since implementing its environmental management system or since beginning to conduct environmental performance evaluations and that action was taken with due diligence; (e) exercised reasonable care in identifying violations in a timely manner; or (f) willingly cooperated in any investigation that was conducted by this state or a local governmental unit to determine the extent and cause of the violation.

Recognition. If a regulated entity conducts an environmental performance evaluation that complies with tier I requirements at least every two years, submits a complying report for each environmental performance evaluation, corrects any violations described in those reports, and otherwise qualifies for participation in tier I, all of the following would apply: (a) DNR would be required to issue to the regulated entity a numbered certificate of recognition; (b) the Department would be required to identify the regulated entity, on an Internet site maintained by the Department, as a participant in tier I; (c) DNR would be required to annually provide notice of the regulated entity's status as a tier I participant to newspapers in the area in which facilities operated by the regulated entity are located; and (d) the regulated entity could use a green tier logo selected by the Department on written materials produced by the regulated entity.

Tier II - Eligibility and Process

An applicant could participate in tier II of the green tier program if the applicant satisfies several requirements. If an applicant for participation in tier II consists of a group of entities, each entity would have to satisfy each requirement. DNR would be required to complete specific activities. Tier II of the green tier program would include the following requirements.

Enforcement Record. An applicant for tier II would be required to demonstrate all of the following:

a. Within 60 months before the date of application, no judgment of conviction was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant for a criminal violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.

b. Within 36 months before the date of application, no civil judgment was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant for a violation involving a covered facility or activity that resulted in substantial harm to public health or the environment

c. Within 24 months before the date of application, DOJ has not filed a suit to enforce an environmental requirement, and DNR has not issued a citation to enforce an environmental requirement, because of a violation involving a covered facility or activity.

Environmental Performance. A tier II applicant would be required to submit an application that describes all of the following: (a) the applicant's past environmental performance with respect to each covered facility or activity; (b) the applicant's current environmental performance with respect to each covered facility or activity; and (c) the applicant's plans for activities that enhance the environment, such as improving the applicant's environmental performance with respect to each covered facility or activity.

Environmental Management System. A tier II applicant would be required to do all of the following:

a. Demonstrate that it has implemented, or commit itself to implementing within one year of application, for each covered facility or activity, an environmental management system that is: (1) based on the standards for environmental management systems issued by the International Organization for Standardization or determined by the department to be functionally equivalent to an environmental management system that is based on those standards; and (2) determined by DNR to be appropriate to the nature, scale, and environmental impacts of the applicant's operations related to each covered facility or activity.

b. Include, in the environmental management system, objectives in at least two of the following areas: (1) improving the environmental performance of the applicant, with respect to each covered facility or activity, in aspects of environmental performance that are regulated under Chapters 160 and 280 to 299 of the Statutes; (2) improving the environmental performance of the applicant, with respect to each covered facility or activity, in aspects of environmental performance that are not regulated under Chapters 160 and 280 to 299; and (3) voluntarily restoring, enhancing, or preserving natural resources.

c. Explain to the Department the rationale for the choices of objectives and describe any consultations with residents of the areas in which each covered facility or activity is located or performed and with other interested persons concerning those objectives.

d. Conduct, or commit itself to conducting, annual environmental management system audits, with every third environmental management system audit performed by an outside environmental auditor approved by DNR, and commit itself to submitting an annual report on the environmental management system audit to the Department.

e. Commit itself to submitting to DNR an annual report on progress toward meeting the objectives in the environmental management system.

Public Notice and DNR Approval. After DNR received an application for participation in tier II, the Department would be required to provide public notice about the application in the area in which each covered facility or activity is located or performed. After providing the

required public notice about an application, DNR would be authorized (but not required) to hold a public informational meeting on the application. DNR would be required to approve or deny an application within 60 days after providing notice or, if the Department holds a public informational meeting, within 60 days after that meeting.

The Department could limit the number of participants in tier II, or limit the extent of participation by a particular applicant, based on the department's determination that the limitation is in the best interest of the green tier program. A decision by the department to approve or deny an application would not be subject to administrative or judicial review under Chapter 227.

Tier II - Incentives

DNR would be required to provide the following incentives for participation in tier II: (a) DNR would be required to issue a numbered certificate of recognition to each tier II participant; (b) the Department would be required to identify each participant in tier II on an Internet site maintained by the Department; (c) DNR would be required to annually provide notice of the participation of each participant in tier II to newspapers in the area in which each covered facility or activity is located; (d) a tier II participant could use a green tier logo selected by DNR on written materials produced by the participant; (e) DNR would be required to assign a Department employee to serve as the contact for a tier II participant for any approvals that the participant is required to obtain and for technical assistance (f) after a tier II participant implements a complying environmental management system, DNR would be required to conduct any inspections of the participant's covered facilities or activities that are required under Chapters 280 to 295 at the lowest frequency permitted under those chapters, except that the Department could conduct an inspection whenever it has reason to believe that a participant is out of compliance with a requirement in an approval.

Tier III

An applicant could participate in tier III of the green tier program if the applicant satisfies several requirements. If an applicant for participation in tier III consists of a group of entities, each entity would have to satisfy each requirement. DNR would be required to complete specific activities. Tier III of the green tier program would include the following requirements.

Enforcement Record. An applicant for tier III would be required to demonstrate all of the following:

a. Within 120 months (instead of 60 months under tier II) before the date of application, no judgment of conviction was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant for a criminal violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.

b. Within 60 months (instead of 36 months under tier II) before the date of application, no civil judgment was entered against the applicant, any managing operator of the applicant, or any person with a 25% or more ownership interest in the applicant for a violation involving a covered facility or activity that resulted in substantial harm to public health or the environment

c. Within 24 months (same as under tier II) before the date of application, DOJ has not filed a suit to enforce an environmental requirement, and DNR has not issued a citation to enforce an environmental requirement, because of a violation involving a covered facility or activity.

Environmental Management System. A tier III applicant would be required to do all of the following:

a. Demonstrate that it has implemented, or commit itself to implementing within one year of application, for each covered facility or activity, an environmental management system that is: (1) based on the standards for environmental management systems issued by the International Organization for Standardization or determined by the department to be functionally equivalent to an environmental management system that is based on those standards; and (2) determined by DNR to be appropriate to the nature, scale, and environmental impacts of the applicant's operations related to each covered facility or activity. This requirement would be the same as under tier II.

b. Commit itself to having an outside environmental auditor approved by the Department conduct an annual environmental management system audit and to submitting an annual report on the environmental management system audit to the Department.

c. Commit itself to annually conducting, or having an outside environmental auditor conduct, an audit of compliance with environmental requirements that are applicable to the covered facilities or activities and to submitting the results of the audit to the Department.

Superior environmental performance. A tier III applicant would be required to demonstrate a record of superior environmental performance, and describe the measures that it proposes to take to maintain and improve its superior environmental performance.

Application Process. To apply for participation in tier III, an entity would be required to submit a letter of intent to DNR. In addition to providing information necessary to show that the applicant satisfies the tier III requirements, the applicant would be required include the following in the letter of intent: (a) describe the involvement of interested persons in developing the proposal for maintaining or improving the applicant's superior environmental performance, identify the interested persons, and describe the interests that those persons have in the applicant's participation in the green tier program; and (b) outline the provisions that it proposes to include in the green tier contract.

DNR would be authorized to limit the number of letters of intent that it processes based on the staff resources available. When the Department decides to process a letter of intent, DNR

would be required to provide public notice about the letter of intent in the area in which each covered facility or activity is located or performed. After providing public notice about a letter of intent, the Department could hold a public informational meeting on the letter of intent.

Negotiations for a Green Tier Contract. Within 30 days after the public notice, interested persons could request that DNR authorize them to participate in the negotiations regarding a green tier contract. A person who makes a request under this paragraph would be required to describe the person's interests in the issues raised by the letter of intent. The Department would be required to determine whether a person who makes a request would be authorized to participate in the negotiations based on whether the person has demonstrated sufficient interest in the issues raised by the letter of intent to warrant that participation.

If DNR determines that an applicant satisfies the tier III requirements, the Department could begin negotiations concerning a green tier contract with the applicant and with any persons to whom the department granted permission to participate. The department could begin the negotiations no sooner than 30 days after providing public notice about the applicant's letter of intent.

The Department would be authorized to terminate negotiations with an applicant concerning a green tier contract. The decision to terminate negotiations would not be subject to administrative or judicial review under Chapter 227.

Green Tier Contract. If negotiations result in a proposed green tier contract, the Department would be required to provide public notice about the proposed green tier contract in the area in which each covered facility or activity is located or performed.

After providing public notice about a proposed green tier contract, DNR could hold a public informational meeting on the proposed green tier contract. Within 30 days after providing notice or, if the Department holds a public informational meeting, within 30 days after that meeting, the Department would be required to decide whether to enter into a green tier contract with an applicant. In a green tier contract, DNR would require that the participant maintain the environmental management system and perform the environmental audits it committed to. The Department could not provide reduced inspections or monitoring as an incentive in a green tier contract if the participant conducts the environmental audit.

DNR would be required to ensure that the incentives provided under a green tier contract are proportional to the environmental benefits that will be provided by the participant under the green tier contract. The Department would be required to include in a green tier contract remedies that apply if a party to the contract fails to comply with the contract. The term of a green tier contract could not exceed five years, with opportunity for renewal upon agreement of the parties for additional terms not to exceed five years for each renewal. There would be no right to an administrative hearing on the department's decision to enter into a contract, but the decision would be subject to judicial review.

Other Program Requirements

Suspension or Termination of Participation. DNR would be authorized to suspend or revoke the participation of a participant in the green tier program at the request of the participant. The Department could terminate the participation of a participant in the green tier program if a judgment is entered against the participant, any managing operator of the participant, or any person with a 25% or more ownership interest in the participant for a criminal or civil violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment.

DNR could suspend the participation of a participant in the green tier program if the Department determines that the participant, any managing operator of the participant, or any person with a 25% or more ownership interest in the participant committed a criminal or civil violation involving a covered facility or activity that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment and the Department refers the matter to DOJ for prosecution.

DNR could suspend or revoke the participation of a tier II participant if the participant does not implement, or fails to maintain, the required environmental management system, fails to conduct required annual audits, or fails to submit required annual reports.

DNR could, after an opportunity for a hearing, terminate a green tier contract if the Department determines that the participant is in substantial noncompliance with the green tier contract. A person who is not a party to a green tier contract, but who believes that a participant is in substantial noncompliance with a green tier contract, could ask the Department to terminate a green tier contract.

Environmental Auditors. DNR could not approve an environmental auditor for use by tier II or tier III participants unless the environmental auditor is certified by the Registrar Accreditation Board of the American National Standards Institute or meets criteria concerning education, training, experience, and performance that are specified by the department.

Access to Records. DNR would be required to make any record, report, or other information obtained in the administration of the green tier program available to the public. However, the Department would be required to keep confidential any part of a record, report, or other information obtained in the administration of this section, other than emission data or discharge data, upon a showing satisfactory to DNR by any person that the part of a record, report, or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret, of that person.

If the Department refuses to release information on the grounds that it is confidential and a person challenges that refusal, DNR would be required to inform the affected regulated entity of that challenge. Unless the regulated entity authorizes DNR to release the information, the

regulated entity would be required to pay the reasonable costs incurred by the state to defend the refusal to release the information.

The confidentiality requirements would not prevent the disclosure of any information to a representative of DNR for the purpose of administering the green tier program or to an officer, employee, or authorized representative of the federal government for the purpose of administering federal law. When the Department provides information that is confidential under the green tier program to the federal government, DNR would also be required to provide a copy of the application for confidential status.

PUBLIC INSTRUCTION -- CATEGORICAL AIDS

84. SPECIAL EDUCATION REQUIREMENTS

Make the following changes to special education statutes:

a. Specify that a local educational agency (LEA), rather that an individualized education program (IEP) team as under current law, determine the special education placement for a child with disabilities. The IEP team would continue to generally be responsible for evaluating a child to determine eligibility for special education and related services and an IEP for an eligible child.

b. Delete the requirement that an LEA provide to DPI information pertaining to the range of severity of disability among children with disabilities in its plan for the provision of special education and related services.

c. Require the LEA to provide to a child's parents a copy of the evaluation report prepared by the IEP team for determination of whether the child is a child with disabilities, regardless of whether an IEP team participant requests a copy of the report or not as under current law.

d. Specify that each person, rather than only an IEP team participant as under current law, who administers tests, assessments or other evaluation materials as part of an evaluation, make available to all persons who are part of the evaluation a written summary of the person's findings.

e. Specify that an LEA has responsibility for reevaluating children with disabilities. Under current law, the LEA must ensure that the IEP team carries out reevaluations.

f. Specify that, if an IEP team determines that a child does not have a disability, the LEA need not provide the prior written notice generally required when the LEA proposes or refuses to change a child's special education status, with the required copy of the evaluation report.

g. Specify that an IEP, beginning when a child turns 14 years old and until the child is no longer eligible for special education and related services, include a statement of the transition services needed by the child and identifying the courses of study needed to prepare the child for a successful transition to his or her goals for life after secondary school. Currently, the IEP statement need only identify courses, rather than transition services.

85. SPECIAL EDUCATION RULES

Require the State Superintendent to ensure, to the extent practicable, that all state special education rules are identical to federal regulations adopted under the federal Individuals with Disabilities Education Act.

86. BILINGUAL-BICULTURAL EDUCATIONAL PROGRAM REQUIREMENTS

Delete the current law requirement that statutorily-required bilingual-bicultural education programs from kindergarten through grade eight be taught by a bilingual teacher.

Under current law, a school board is required to establish a bilingual-bicultural education program if a certain number of limited-English proficient students attend a particular school and the pupils' parents or guardians consent to the placement. The bill would not affect the provision that bilingual-bicultural programs for students in grades nine through twelve be taught by a bilingual teacher.

87. EXPANDED FLEXIBILITY FOR SCHOOL DISTRICTS

GPR	$2,100,000

Require DPI to designate a school district that applied for designation and met the criteria for designation as a school district with expanded flexibility. A district would retain the designation for four school years unless it failed to satisfy the requirements of a school district with expanded flexibility and could reapply for the designation. In considering a reapplication, require DPI to consider the district's success in achieving the performance goals in its annual plan.

Authorize school districts to apply to DPI to be designated as a school district with expanded flexibility by October 15 of an even-numbered year if all of the following are true for the two preceding school years: (a) the percentage of pupils enrolled in the school district who took the 3rd, 4th, and 8th grade exams and whose score on each assessment was at the proficient level or above was at least equal to the statewide average; (b) the percentage of pupils enrolled in the school district who took the 10th grade exam and whose score was at the proficient level

or above was at least equal to the statewide average; (c) beginning in the 2004-05 school year, the percentage of pupils enrolled in the school district who took and passed the high school graduation exam equaled or exceeded the statewide average; (d) the school district's attendance rate at least equaled the statewide average attendance rate; and (e) the school district's high school graduation rate at least equaled the statewide average rate. For union high school districts and their underlying elementary school districts, the requirements relating to grade levels they do not serve do not apply.

Require DPI to identify which school districts would be eligible to receive the designation of expanded flexibility by November 15 of each even-numbered year. Require DPI to designate a school district that applied and met the criteria described above as a school district with expanded flexibility beginning on July 1 of an odd-numbered year.

Require school districts with expanded flexibility to do all of the following: (a) allocate 85% of school district revenues, including federal revenues, for use by principals at their respective schools; (b) ensure that at least 95% of the pupils in the district who are eligible take the state assessments and high school graduation examination; (c) allow the pupil's parent or guardian to choose the school in which to enroll the pupil if there are at least two schools that offer the appropriate grade for the pupil; (d) ensure that each school in the school district prepares an annual plan that includes performance goals for all pupils, for minority group pupils, for low-income pupils, and for teachers; and (e) by July 1 of the calendar year following application for expanded flexibility, submit to DPI a written policy specifying how the school district will comply with the revenue allocation and school choice requirements.

Authorize school districts with expanded flexibility to do the following: (a) create school governance councils, a majority of whose members are parents of pupils enrolled in the district, to advise school principals; and (b) reassign staff members of schools in the school district without regard to seniority in service.

A school district with expanded flexibility and, where appropriate, its employees, would be exempt from the statutory requirements and prohibitions relating to the following: (a) the employment and duties of reading specialists; (b) foreign language instruction; (c) the subjects of a human growth and development curriculum, the distribution of the curriculum to parents, and the formation of a curricular advisory committee; (d) special observance of certain days; (e) adoption of textbooks; (f) identification of and planning for children-at-risk; (g) development of a truancy committee and plan; (h) teacher reports; (g) renewal of teacher contracts; (h) electronic communication devices; (i) high school graduation criteria relating to enrollment in a class in each period of each day and alternatives; (j) development, evaluation and annual reports related to technical preparation programs; (k) gifted and talented instruction; and (l) before- and after-school day care.

Specify that supervisors, administrators, and noninstructional professional staff members who are employees of schools with expanded flexibility would not be required to hold a certificate, license or permit to teach issued by DPI before entering on duties for such positions.

In addition, a district with expanded flexibility would be exempt from school district standards requirements related to the following: (a) professional staff development plans; (b) five-year-old kindergarten; (c) guidance and counseling services; (d) 180 days of instruction; (e) instructional materials reflecting cultural diversity and a pluralistic society; (f) qualified teachers in health, physical education, art and music; (g) written curriculum plans; (h) required subjects; (i) education for employment; (j) planning for children at risk; (k) written evaluations of certified school personnel; and (l) gifted and talented instruction.

Finally, MPS, if designated, would be exempt from the statutory requirements and prohibitions related to the following: (a) expanded five-year-old kindergarten; (b) evaluating and reporting on five-year-old kindergarten and early childhood education; (c) extended-day elementary, four-year-old kindergarten, and alcohol and other drug abuse at 68th Street school; (d) expanded 1st grade; and (e) a family resource center.

Create a sum certain GPR appropriation with $600,000 in 2002-03 for grants for school district decentralization plans for designated districts. Require DPI, in the school year of identification, to award grants on a competitive basis to help implement school district decentralization plans, including training and providing technical assistance to teachers to prepare them to work in decentralized districts, meeting the requirements of expanded flexibility, and creating school governance councils. Require that such a grant could not exceed $7,500 multiplied by the number of schools in the district, or $100,000, whichever is less. Specify that a grant recipient could spend the monies during the school year in which they are awarded and during the following school year.

Create a sum certain GPR appropriation with $1,500,000 in 2002-03 for grants for training school administrators in designated districts. Require DPI, in the school year of identification, to award grants on a competitive basis to such school districts, consortia of two or more such districts, or consortia of two or more such districts and a statewide organization that is a member of the School Administrators Alliance. These districts or consortia would have to submit written plans specifying how the grant monies would be used to train superintendents, principals, and prospective principals to decentralize the administration of their districts and work effectively in decentralized districts. Specify that a grant recipient could spend the monies during the school year in which the grant is awarded or during the following school year.

Require DPI to promulgate rules to administer the program. Provide that the assignment of municipal employees, with or without seniority, in any school district designated a school district with expanded flexibility, or the impact of such assignment on the wages, hours or conditions of employment, would be prohibited subjects of bargaining. For more information on collective bargaining changes related to this provision, see "Employment Relations Commission."

88. PERFORMANCE IMPROVEMENT AWARDS FOR SCHOOLS

Require DPI to award grants to school boards on behalf of schools in school districts that demonstrate improved performance over the previous school year, beginning in the 2003-04 school year. Create a GPR sum certain appropriation for this purpose, but without funding in the 2001-03 biennium. Require DPI to promulgate rules, after considering criteria proposed by the committee described below, to administer and implement the program, which would have to include as criteria for grant eligibility dropout rates, graduation rates, improvement in pupils' academic performance and in teachers' knowledge and skills, and the number of teachers certified by the National Board for Professional Teaching Standards. The rules would have to specify the weight assigned to each criterion, except that 75% of the weight must be assigned to improvement in pupils' academic performance.

Require DPI to award grants to no more than six school boards in the same school year and ensure that the amount of each grant does not exceed $2,000 multiplied by the number of employees in all schools in the district that meet performance requirements. Prohibit DPI from awarding a grant after June 30, 2004, to a school board that was ineligible to receive a grant before that date. Authorize DPI to renew grants to school boards that received grants before June 30, 2004, if their schools continue to meet performance requirements without interruption.

Require that any compensation received under this program would not be subject to the limitation on average increases in compensation and fringe benefits provided by school districts to non-represented professional employees.

Create a school performance committee to develop criteria for awarding the grants and require the committee to submit the proposed criteria to DPI by June 30, 2002. The committee would terminate June 30, 2002, or the date by which it submits its proposed criteria, whichever is earlier. The committee would be composed of three employees of DPI, appointed by the State Superintendent, and three members appointed by the Governor. The Governor would appoint the committee's chair.

PUBLIC INSTRUCTION -- CHOICE, CHARTER AND OPEN ENROLLMENT

89. MILWAUKEE PARENTAL CHOICE PROGRAM ADMINISTRATIVE DATES AND NOTIFICATIONS

Modify the current law date by which a private school is required to notify the State Superintendent of its intent to participate in the Milwaukee parental choice program to be February 1, rather than May 1, of the previous school year.

Provide that, if DPI receives a notice of intent to participate from a private school, DPI must notify the private school of whether it is eligible to participate in the choice program by March 1. If DPI determines that the private school is ineligible to participate, require the DPI notification to include an explanation of that determination. Allow a private school to appeal the decision to DPI within 14 days after the decision. Require DPI to approve, reverse or modify its decision within seven days of receiving an appeal.

Require the State Superintendent to publish, by May 15, a list of the private schools that DPI has determined to be eligible to participate in the choice program in the succeeding school year. Current law requires the State Superintendent to ensure that parents and guardians of pupils who reside in the City of Milwaukee be informed annually of private schools participating in the choice program, without specifics as to timing or what information is to be provided.

Require a private school that intends to participate in the choice program in the current school year to submit to DPI by August 1 of that year a report stating the number of pupils that will attend the private school under the choice program in the current year.

Require a private school participating in the choice program to file its summer membership report to DPI by September 1, rather than October 15 as under current law.

Specify that these changes would first apply to pupils and private schools that intend to participate in the program in the 2002-03 school year.

90. EXPAND CHARTERING AUTHORITY

Authorize the City of Milwaukee, the chancellor of any baccalaureate or graduate degree granting institution within the UW System, any technical college district board, and the Board of Control of any CESA to operate or contract to operate a school as a charter school within any school district. Specify that in order to attend the charter school, pupils would have to reside within the district in which the charter school is located, except that if the charter school is established or operated by a CESA, a pupil who resides in any school district served by the CESA may attend the charter school. State aid would be paid in the same manner that aid is currently paid to Milwaukee charter schools. The charter schools established under this provision would not be instrumentalities of any school district, and no school board could employ any personnel for the charter school.

Under current law, the City of Milwaukee, the UW-Milwaukee, and the Milwaukee Area Technical College may operate or contract with another party to operate a school as a charter school. Only children residing within the Milwaukee Public School may attend these charter schools if in the previous year the pupil was: (a) enrolled in MPS; (b) enrolled in a school participating in the Milwaukee parental choice program; (c) enrolled in grades K to 3 in a private school in Milwaukee; (d) not enrolled in school; or (e) enrolled in a Milwaukee charter school.

PUBLIC INSTRUCTION -- ASSESSMENTS AND LICENSING

91. MILWAUKEE PARENTAL CHOICE PROGRAM PUPIL ASSESSMENT

Require the governing body of each private school participating in the Milwaukee parental choice program (MPCP) to notify the Board on Education Evaluation and Accountability (Board), created by the bill, whether it will administer: (a) 3rd, 4th, 8th and 10th grade examinations; or (b) the high school graduation examination; or (c) both. Specify that this notification would have to be made annually by September 15 and apply to the current school year.

Provide that if the schools choose to administer the exams, the 3rd grade exam would have to be a standardized reading test developed by the Board and the other exams must be those adopted or approved by the Board, and the exams must be administered to all pupils attending the appropriate grade in the private school under MPCP . If the school notifies the Board that it will administer the high school graduation exam, require the school to administer the exam to all pupils attending the 11th and 12th grades at the school under MPCP at least twice each school year, but only to pupils attending the 11th and 12th grades under MPCP.

Provide that if the schools choose to administer the exams, private MPCP schools would follow the same requirements as public and charter schools for testing pupils enrolled in a special education program, including modifying the assessments where necessary or administering alternative assessments to those children who cannot participate in statewide or local educational agency-wide assessments. Similarly, specify that private MPCP schools would follow the same criteria, set by the Board, as public and charter schools to determine whether to administer a standardized assessment to a limited-English proficient pupil, to permit the pupil to be examined in his or her native language, or to modify the format and administration of the exam for such pupils.

Require private MPCP schools to excuse a pupil from taking a standardized assessment upon the request of the pupil's parent or guardian.

Require the Board to provide and score these examinations free of charge. Prohibit the Board from disclosing the results of exams administered by private MPCP schools, except to: (a) publish the aggregate results of all of the exams provided to the Board by private MPCP schools; and (b) report each pupil's scores to the pupil's parent or guardian.

Provide that these provisions would take effect on July 1, 2002.

92. ACCESS TO STATEWIDE EXAMINATIONS

Require the State Superintendent to allow a person to view a statewide examination (the high school graduation test and 4th, 8th and 10th grade examinations), rather than make an examination available as under current law, if the person submits a written request to do so within 90 days after the date of administration of the examination. As under current law, this provision would not apply while an exam is being developed or validated. Require the State Superintendent to promulgate rules establishing procedures to administer this provision and that the rules, to the extent feasible, protect the security and confidentiality of the exams.

93. EXCEPTIONS TO TEACHER LICENSING EDUCATION REQUIREMENTS

Require DPI to grant a temporary initial teaching license to a person who satisfies all of the requirements for an initial teaching license other than the educational requirements, upon the request of a school board that states that it intends to employ the person as a teacher, and that at least one of the following apply: (a) the person has a bachelor's degree from an accredited institution of higher education in a field related to the subject he or she will teach; (b) the person has at least five years of practical or teaching experience in a field related to the subject he or she will teach; or (c) the person served in the U.S. Armed Forces or in forces incorporated as part of the U.S. Armed Forces for at least five consecutive years, was discharged under conditions other than dishonorable, and has practical or teaching experience in a field related to the subject he or she will teach. If the board intends to employ the person in grades K to 5, the requirements under (a) or (b) above are satisfied if the person has a bachelor's degree or at least five years of practical or teaching experience related to mathematics, English, social studies, or science.

A temporary license granted under this provision would be valid for two years and would not be renewable. If a person with a license under this provision completes an alternative teacher training program approved by DPI before the expiration of the license, DPI would be required to grant an initial teaching license, valid for five years and renewable under current rules promulgated by DPI, to be considered retroactively effective to the date the temporary license was granted. The alternative training program would be required to consist of at least 100 hours of instruction over the course of no more than two years.

Clarify cross references to current statutes governing teacher licensing.

Specify that these teacher licensing modifications would first apply to license applications received by the DPI on the effective date of the bill.

Under current law, a teaching license may not be granted to a person who does not hold a bachelor's degree including such professional training as required by statute or DPI rule, with certain exceptions for applicants to teach Wisconsin native American languages and culture.

94. ESTABLISH DIFFERENT LEVELS OF TEACHER LICENSURE

Require the State Superintendent to establish different levels of teacher licensure, such as initial, professional, and master licenses, and promulgate rules establishing different standards for each level. This measure would codify in statute the general license categories in the recently-established teacher licensing rules promulgated by DPI. Also, require that by July 1, 2003, DPI submit to the Department of Administration and the Legislative Fiscal Bureau an estimate of the costs of requiring school districts to provide a qualified mentor for each person who holds an initial educator license, as is currently provided under DPI's administrative rules.

95. RECOGNIZE OUT-OF-STATE TEACHER LICENSES

Subject to certain current statutory requirements relating to social security number information, felony convictions and background investigations, require DPI to grant an initial teacher's license to any person who holds a valid license as a teacher issued by another state. In addition, if DPI establishes different levels of teacher licensure, require DPI to grant the highest level of teacher's license to any person who holds a valid teacher's license issued by another state and is certified by the National Board for Professional Teaching Standards. Specify that these provisions would first apply to license applications received by DPI on the effective date of the bill.

96. TEACHER BACKGROUND CHECKS AND LICENSE SUSPENSION

Allow the State Superintendent to limit or suspend teaching licenses or certificates, subject to the same laws and procedures currently governing revocation of licenses and certificates. Require the State Superintendent to revoke the teaching license without a hearing of a person convicted of a crime in another country equivalent to a Class A, B, C or D felony, for a violation that occurs after the effective date of the budget.

Prohibit the State Superintendent from granting a license or certificate to a person who is convicted in another state or country of a crime that is substantially similar to the crimes currently specified as grounds for denial of a license. Current law prohibits the State Superintendent from granting a license to a person convicted in another state or country of a crime that is equivalent to one of the specified crimes.

Add Class BC felonies to the crimes specified for which conviction in this state would be grounds for the revocation of a teaching license without a hearing and for which the State Superintendent would be prohibited from granting a license or certificate, for a violation that occurs after the effective date of the budget act. Class BC felonies consist of incest of a child, child enticement, second degree sexual assault, second degree sexual assault of a child and child prostitution solicitation, and are punishable by a maximum sentence of 30 years of incarceration.

Require educational agencies to release to the State Superintendent all records relating to a licensed employee or former employee of the agency, if the State Superintendent requests such records and has commenced an investigation to determine whether to initiate license limitation, suspension, or revocation proceedings. Require the State Superintendent to keep such information confidential.

Require the State Superintendent to release to an educational agency, at the request of the agency and upon receiving a signed consent from the employee or applicant, the results of a background investigation received from the Department of Justice or the Federal Bureau of Investigation concerning the employee or applicant for a position with the agency. Require the agency to keep such information confidential. Current law requires the State Superintendent to keep such information confidential, except that the State Superintendent must report relevant information concerning an employee or applicant to the Department of Workforce Development or a county child support agency at the request of either agency.

97. WAIVER FOR TEACHER LICENSES ALLOWED

Delete a current prohibition on school district requests for DPI waivers of teacher licensing requirements, except certification requirements for school nurses. Specify that this modification would apply initially to license applications received by DPI on the effective date of the bill.

Under current law, with certain exceptions, DPI is authorized to waive statutory requirements or rules governing elementary and secondary education at the request of a school board. Currently, school boards may not request waivers for requirements governing teacher licensure or certification other than the licensure of the school district administrator or business manager.

PUBLIC INSTRUCTION -- SCHOOL DISTRICT OPERATIONS

98. EXPAND CURRENT MPS SCHOOL CLOSING AUTHORITY STATEWIDE

Expand current authority for Milwaukee Public Schools to close any school that it determines is low in performance, so that it would apply statewide. Under this provision, if a school board would close any school that it determines is low in performance, it would have to adopt a resolution to that effect. If a school district administrator recommends that a school be closed for low performance, he or she would be required to state the reasons for the recommendation in writing. If the school board closes a school, the school district administrator

could both reassign the staff members of a closed school and reassign staff members to the school without regard to seniority in service.

Specify that current statutes that apply to MPS's school closing authority, which prohibit as a subject of bargaining the reassignment of employees or the impact of such a reassignment on the wages, hours or conditions of employment, as a result of a MPS decision to close a low-performing school, would apply to all school districts. This modification to the law governing bargaining would first apply to collective bargaining agreements for which notices of commencement of contract negotiations would be filed after the effective date of the budget act. See "Employment Relations Commission" for more information on the collective bargaining changes.

99. EXPAND CURRENT MPS PRIVATE SCHOOL CONTRACTING AUTHORITY STATEWIDE

Expand current authority for Milwaukee Public Schools to contract with any nonsectarian private school or any nonsectarian private agency to provide educational programs, so that it would apply statewide. Under this provision, a school board would have to ensure that each private school or agency under contract comply with specific state and federal laws relating to confidentiality of pupil records and prohibiting pupil discrimination as well as all health and safety laws and rules that apply to public schools. The private school or agency would have to be located in the school district. Any pupil in the school district could attend the private school or agency at no charge if space is available.

As under current law for MPS, require each private school or agency under contract with a school board to: (a) offer a full school-year educational program; (b) participate in the school board's parent information program; (c) offer diverse opportunities for parental participation; (d) meet insurance and financial requirements set by the school board; and (e) report any information requested by the school board. In addition, the school or agency would have to develop a pupil recruitment and enrollment plan that incorporates: a good faith effort to achieve racial balance; a pupil selection process that gives preference to siblings of enrolled pupils and no other preferences except those approved by the school board; and a description of how the plan will serve low-academic achievers and pupils from low-income families. Require the school board to establish appropriate, quantifiable performance standards for pupils served under the contracts in such areas as attendance, reading achievement, pupil retention, pupil promotion, parent surveys, credits earned and grade point average; monitor the program's performance (standardized basic skills tests may be used); and include a summary of its findings in its annual report to the State Superintendent.

Specify that current statutes that apply to MPS's private school and agency contracting authority, which prohibit as a subject of bargaining the impact of such contracting on the wages, hours or conditions of employment, would apply to all school districts. This modification to the law governing bargaining would first apply to collective bargaining agreements for which

notices of commencement of contract negotiations would be filed after the effective date of the budget act. See "Employment Relations Commission" for more information on the collective bargaining changes.

100. SCHOOL START DATE

Allow school boards to hold the public hearing relating to the school start date no earlier than May 1 of the previous school year, beginning in 2002-03 school year. Prohibit school districts from holding classes on August 30, 2001, or August 31, 2002, which are the Fridays before Labor Day weekend each year. Specify that current statutes establishing certain prohibited subjects of collective bargaining could not be construed to eliminate a school district's duty to bargain collectively with its employees with respect to the impact of any school calendar decision on wages, hours, and conditions of employment. Modify current statutes relating to school hours that state a school district's duty to bargain over any calendaring proposal which is primarily related to wages, hours and conditions of employment, to instead refer to the impact of the school calendar on wages, hours and conditions of employment.

Create a nine-member committee appointed by the Governor to study the educational and economic effects of a required September 1 school start date and require the committee to report its findings and recommendations to the Governor and Legislature by December 1, 2002. Specify that committee members would include: (a) a licensed teacher; (b) a parent of a public school pupil; (c) a school board member chosen from nominees by the Wisconsin School Boards Association; (d) a school district administrator chosen from nominees by the Wisconsin Association of School District Administrators; (e) an employer chosen from nominees by Wisconsin Manufacturers and Commerce; (f) a person chosen from nominees by the Wisconsin Restaurant Association; (g) a person chosen from nominees by the Wisconsin Tourism Association; (h) a member of the general public; and (i) the Secretary of Commerce, or his or her designee. Specify that the Governor would name the chairperson of the committee. Provide that the committee would terminate on the date it submits its findings and recommendations.

Under current law, no public school may commence the school term until September 1, unless the school holds a public hearing on the issue and adopts a resolution to commence the school term on an earlier date. The hearing may not be held prior to July 1. School boards are not prohibited from holding athletic contests or practices or scheduling in-service or work days prior to September 1, or from holding school year-round.

101. LAYOFF OR REASSIGNMENT OF EMPLOYEES IN CONSOLIDATED SCHOOL DISTRICTS

Provide that for 60 days after the effective date of the consolidation of school districts, the district administrator may lay off or reassign employees in the newly-consolidated district without regard to seniority in service. Specify that the layoff or reassignment of employees,

with or without regard to seniority, or the impact of such layoff or reassignment on the wages, hours, or conditions of employment would be prohibited subjects of bargaining. For more information on the collective bargaining changes related to this provision, see "Employment Relations Commission."

102. LOW PERFORMANCE SCHOOLS

Require each school district identified as low in performance to review the recommendations made under current law by the State Superintendent regarding how the programs and operations of the identified school districts and schools may be improved, and require the district to develop an improvement plan. Modify a current requirement that the State Superintendent periodically assess school district implementation, to refer to the plans. Require the State Superintendent to publish and distribute a list of the schools identified as low performance to the Governor and Legislature annually.

103. PROHIBIT WAIVERS FOR SCHOOL PERFORMANCE REPORTS

Prohibit a school board from requesting a waiver from DPI for the statutory provision requiring each board to compile a school performance report annually.

PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

104. COMMITTEE TO REVIEW DPI'S RULES

Establish an 11-member committee to review administrative rules promulgated by DPI. The committee would consist of the following members: (a) three school board members selected by the Governor from a list submitted by the Wisconsin Association of School Boards; (b) three school district administrators selected by the Governor from a list submitted by the Wisconsin Association of School District Administrators; (c) three teachers selected by the Governor from names submitted by organizations representing teachers; and (d) two other members appointed by the Governor, one of whom would be the parent of a school-age child. Specify that the Governor would name the chairperson, and require DPI to provide staff for the committee.

Require the committee to review all of DPI's administrative rules, except rules relating to special education and health and safety issues. Require the committee to identify rules that are outmoded, impede innovation, cause inefficiencies, or fail to promote academic achievement as

well as rules that should not apply to school districts designated with expanded flexibility as proposed under the bill.

Require the committee to report its recommendations on modifications to the rules by August 1, 2002, to the Governor, DPI, the Secretary of Administration, and the Legislature. Specify that the committee terminates upon submission of its report. Require DPI to review the committee's report. Require DPI to submit proposed modifications to the rules based on the committee's recommendations by March 1, 2003.

105. VOCATIONAL EDUCATION CONSULTANTS

Require the State Superintendent to ensure that the vocational education consultants employed by DPI coordinate their activities with, and support the activities of, the staff of the Governor's Work-Based Learning Board.

106. DISTANCE EDUCATION RULE MAKING

Prohibit the State Superintendent from promulgating rules related to distance education, defined as education characterized by separation, in time or place, between the teacher and the pupil, including courses that are taught principally through the use of video, audio, or Internet transmission, without the approval of the Secretary of Administration, the Wisconsin Technical College System Board, and the TEACH Board.

107. MINORITY GROUP PUPIL PRECOLLEGE SCHOLARSHIPS

Require the University of Wisconsin (UW) System Board of Regents, private colleges that award a bachelor's or higher degree or that provide a program that is acceptable for credit toward such a degree, and the Wisconsin Technical College System (WTCS) Board to report annually to DPI the number of students who both enrolled in a precollege program from that institution and who graduated from that institution. Also, require DPI to report to the Governor and the Legislature on the effectiveness of the minority group pupil precollege scholarship program, including the numbers submitted by the UW, WTCS and private colleges on their program participants who graduated from those institutions.

108. DIVISION FOR LIBRARIES AND COMMUNITY LEARNING

Modify the name of the Division for Libraries and Community Learning in DPI to be the Division for Libraries, Technology, and Community Learning.

109. DELETE CHARTER SCHOOL AUDIT

Delete a provision of current law that specifies that the Joint Legislative Audit Committee may direct the Legislative Audit Bureau (LAB) to perform a financial and performance evaluation audit of the charter school program. The LAB was required to file its report by January 1, 2000, and did so in December, 1998.

PUBLIC SERVICE COMMISSION -- AGENCYWIDE

110. STRAY VOLTAGE AND ELECTRICAL REWIRING ASSISTANCE

Establish a stray voltage and electrical wiring assistance program under DOA to be funded by certain investor-owned electric and gas utility base level public benefits funds that are being transitioned to the state, as follows:

Farm Rewiring Fund. Establish a farm rewiring fund as a separate, nonlapsing trust under the management of the Investment Board.

Contributions to the Farm Rewiring Fund. Specify that of the 1998 base level public benefits funds currently being transitioned from major investor-owned electric or gas utilities to the state public benefits fund, the first $1,500,000 transferred in 2001-02 and the first $2,500,000 transferred in 2002-03 would be earmarked instead for deposit into the new farm rewiring fund. Under current law, the amounts that the major investor-owned utilities spent on public benefits programs in 1998, as determined by the Commission, must be gradually phased over to the DOA public benefits fund during calendar years 2001, 2002 and 2003, in amounts and on a schedule established by the Commission. Beginning with calendar 2003, the utilities must contribute the entire 1998 base level amounts to DOA.

The Commission has identified $4,655,200 of low-income related public benefits expenditures and $18,252,500 of energy conservation and efficiency and renewable resource programs public benefits expenditures to be transitioned from the utilities to DOA in calendar year 2001. For calendar year 2002, these amounts are $4,579,300 and $27,307,600 respectively, and for calendar year 2003 are $21,329,000 and $45,826,000 respectively. While the proposed language does not indicate which revenue stream would be used to fund the farm wiring fund, revenues from the energy conservation and efficiency and renewable resource programs would most likely be used.

Stray Voltage and Electrical Wiring Assistance. Authorize DOA to award grants to operators of dairy, beef or swine farms for the purpose of: (a) eliminating potential stray voltage concerns

and sources; and (b) replacing electrical wiring. Specify that a farm operator would not be eligible to receive a grant under the program unless the public utility providing electric service to the farm had conducted tests to determine the sources of stray voltage on the farm.

Require DOA to promulgate rules establishing criteria and procedures for awarding grants under the program. The rules would have to require that any work completed under a grant would have to be "in accordance with acceptable practices."

Establish a new biennial, SEG funded appropriation under DOA to fund stray voltage and electrical wiring assistance grants. The bill does not provide any funding under this new appropriation.

Because electric cooperatives are not deemed "public utilities" under current law, farm operators served by an electric cooperative would not be eligible for a grant under the proposed program.

111. PUBLIC UTILITY EXEMPTION FROM LIABILITY FOR STRAY VOLTAGE DAMAGE

Exempt public utilities from liability for any damage caused by or resulting from stray voltage contributed by the utility if the stray voltage is below the level of concern established by the Commission at the time the measurement is made, as determined using the Commission's principles and guidelines for stray voltage screening and diagnostic procedures. Upon the request of any party to an action involving stray voltage damages, require the Commission to evaluate and testify on whether the applicable Commission standards were followed in calculating the amount of stray voltage.

For damages resulting from stray voltage, exempt a public utility and a municipal utility from current law liability for treble damages for injuries resulting from willful, wanton or reckless acts or omissions of its directors, officers, employees or agents. Provide that all of these immunity from liability provisions would first apply to actions commenced on and after the general effective date of the biennial budget act.

Electric cooperatives are not deemed "public utilities" under current law and would not be subject to these proposed statutory changes.

112. ENERGY ASSESSMENTS OF PROPOSED ADMINISTRATIVE RULES

Authorize the Commission to conduct an energy assessment of any proposed state agency administrative rule submitted to the Legislative Council Rules Clearinghouse. Stipulate that an energy assessment must evaluate the potential impact of the proposed rule on state energy policies relating to electricity generation, transmission, or distribution or to the fuels used in generating electricity. Authorize the Commission to prepare an energy impact statement, if its initial assessment results in the conclusion that the proposed rule would have a

significant impact on such state energy policies. Require the Commission's energy impact statement to evaluate those probable impacts and describe alternatives to the proposed rule that would reduce any negative impacts on state energy policies.

Require the Commission to submit its energy impact statement to the Legislative Council Rules Clearinghouse and to the state agency proposing the rule. Require the state agency developing the rule to consider the Commission's energy impact statement before submitting to the Legislature the agency's subsequent notice and report on the rule's final draft form. Require the agency's report to include any energy impact statement received from the Commission and include an explanation of the changes, if any, that were made to the proposed rule in response to the Commission's energy impact statement.

113. REVISED COMMISSION ENFORCEMENT AUTHORITY OVER VARIOUS ENTITIES PROVIDING TELECOMMUNICATIONS SERVICES

Modify the Commission's authority to enforce laws relating to telecommunications providers and carriers and to provide protection to telecommunications consumers (including other telecommunications providers), as follows:

Enhanced Commission Enforcement Authority. Grant the Commission explicit authority to take administrative action and institute all necessary actions or proceedings for the enforcement of all laws relating to telecommunications providers (persons who provide telecommunications services) and telecommunications carriers (entities that own or operate facilities or equipment to furnish telecommunications services but do not provide basic local exchange service, except on a resale basis) and for the punishment of all violations.

Protection of Telecommunications Consumers. Explicitly authorize the Commission, in its own name or on behalf of consumers, to initiate a contested case, in addition to any administrative action, to enforce the protection of telecommunications consumers. Although current law appears to authorize the Commission, on its own motion or upon a consumer's complaint, to take administrative action to enforce the protection of telecommunications consumers, a 1997 Court of Appeals decision [*PSC v Wisconsin Bell*] held that the Commission did not have the explicit statutory authority to sue a utility for forfeitures on its own behalf or on behalf of individual citizens.

Authorize the Commission, in its own name or on behalf of consumers, to take administrative action, including the initiation of a contested case, to compel compliance with: (a) laws protecting telecommunications consumers; (b) the accounting and refunding of any monies collected in violations of these protections; or (c) any other appropriate relief. Newly authorize the Commission to impose forfeitures for telecommunications consumer protection violations. Under current law, the Commission, at its discretion, may institute a proceeding in any court of competent jurisdiction to compel compliance with these matters.

Authorize the Commission to take administrative action, including initiating a contested case, bring an action or request the Attorney General to bring an action to require a telecommunications utility or provider to compensate any person for any pecuniary loss caused by its failure to comply with laws relating to the protection of telecommunications consumers. Under current law, the Commission has the authority to request the Attorney General to bring such actions.

Forfeitures. Authorize the Commission to impose, by administrative action, a forfeiture of not less than $25 or more than $5,000 per occurrence against a telecommunications provider. Every day of violation would be deemed a separate offense. Under current law, only a court may impose such forfeitures and only upon a public utility. Further, under current law, a "public utility" includes a telecommunications utility (typically, a provider of local exchange service) but does not include a telecommunications carrier.

Authorize the Commission, in addition to a court (as authorized under current law), to consider all of the following current law factors when imposing a forfeiture on a public utility or a telecommunications provider: (a) the appropriateness of the forfeiture to the volume of business of the public utility; (b) the gravity of the violation; and (c) any good faith attempt to achieve compliance after the public utility receives notice of the violation. As the bill is currently drafted, these current law factors refer only to public utilities and do not contain a needed reference to "telecommunications providers."

Effects of Enforcement Actions on Rates. Authorize the Commission to determine and order reasonable compensation for persons injured by the rates, tolls, charges, schedules and joint rates of telecommunications providers. Specify that payments made by a telecommunications provider for regulatory and consumer protection violations would not constitute a violation of the schedule of lawful rates filed with the Commission.

Initial Applicability. Specify that the provisions authorizing the Commission to impose forfeitures and the extension of the Commission's authority to take administrative action and institute all necessary actions or proceedings for the enforcement of all laws relating to telecommunications carriers would first apply to violations occurring on and after the general effective date of the biennial budget act.

114. LICENSURE OF PRIVATE SECURITY AGENCIES AND ISSUANCES OF PRIVATE SECURITY PERMITS

PR	$10,000

Make the following changes related to the regulation of private security persons:

New Private Security Agency License Established. Authorize the Department to issue a new private security agency license to an individual, partnership, limited liability company or corporation that meets the qualifications described below and allow qualifying individuals who work for a private security agency to be issued a private security permit, as authorized under current law. Provide one-time funding of $10,000 in 2001-02 to support the Department's costs of developing an examination for managers of private security agencies.

Prohibit any person from advertising, soliciting or engaging in the business of operating a private security agency unless the person is licensed by the Department. Establish fines of not less than $100 nor more than $500 and authorize imprisonment for not less than three months nor more than six months (or both) for violations of this provision. Currently these prohibitions apply only to private detective agencies, private detectives and private security persons.

Bonds and Liability Policies Required. Require a private security agency to execute a bond or liability policy that must be filed with the Department before a private security agency license may be issued. Specify that the Department would establish the amount of the bond or liability policy by rule. Current law requirements for a $100,000 bond or liability policy for private detective agencies and a $2,000 bond or liability policy for private detectives would be clarified and recodified.

Issuance of Private Security Permits to Employees of Private Security Agencies. Exempt from the requirement for licensure as a private detective agency, private security agency or private detective an employee of a private security agency doing business in the state by providing uniformed security personnel or patrols on the private property of plants, businesses, schools, hospitals, sports facilities, exhibits and similar activities, if: (a) the employee obtains a private security permit; (b) the private security agency provides up-to-date written information of its employees to the Department; and (c) the private security agency advises the Department within five days of any change in information on such employees. Under current law, this exemption applies only to employees of private detective agencies.

Specify that the Department must issue a private security permit to an employee of a private security agency, if: (a) the individual submits the appropriate application to the Department; (b) the individual has not been convicted of a felony (unless pardoned); (c) the individual provides satisfactory evidence of being employed by a private security agency; and

(d) the individual pays the required fees to the Department. Under current law, these provisions apply only to employees of private detective agencies.

License Fees and Renewal Dates. Establish a statutory $20 biennial renewal fee for private security agency licenses. A current law provision that limits private security and private detective-related licenses to a term of two years would apply to the new private security agency license; however, no uniform expiration date for this new license is established under the proposal. Under current law, the initial private security agency license fee would be the same as the initial credential fee required for other professions [$56 under the bill].

On the later of September 1, 2001, or the first day of the second month after publication of the biennial budget act, reduce the private security person renewal fee from the current $49 to $20. This renewal fee would continue to be paid on September 1 of each even-numbered year.

On the general effective date of the biennial budget act, change the current renewal date for private detective agency licenses from September 1 of each even-numbered year to September 1 of each odd-numbered year (but retain the current $47 renewal fee level) and repeal a current requirement that the licenses of a private detective and a private detective agency shall expire on the same renewal date (September 1 or each even-numbered year). As a result of this proposed change, the expiration of private detective licenses and private detective agency licenses would be one year out of phase.

On the later of September 1, 2001, or the first day of the second month after publication of the biennial budget act, increase the renewal fee for private detective agencies to $56. Since private detective agencies have already renewed their licenses under current law for two years on September 1, 2000, include a nonstatutory provision that would decrease the private detective agency renewal fee by 50% on a one-time basis for those required to renew on September 1, 2001.

Period of Validity of a Temporary Private Security Permit. Increase the period of validity of a temporary private security permit from the current 30 days to 60 days. Under current law, the Department may issue a temporary private security permit where a person has completed an application for full licensure and paid the required fees, but the Department has not completed the necessary background checks. Clarify that an individual seeking a private security permit is subject to the payment of fees for a DOJ records check ($5 per credential), an FBI fingerprint check ($24 per credential) and any temporary permit issued ($10 per credential). A valid temporary private security permit expires under current law when the Department provides written notice to the applicant that all background checks have been completed and the individual is either granted or denied a regular private security permit.

115. ELIMINATION OF CERTIFICATES IN GOOD STANDING REQUIREMENT FOR RESTORATION OF FUNERAL DIRECTOR'S LICENSES

Repeal the current law provision that grants applicants for renewal of a funeral director's license who are not doing business at a recognized funeral establishment at the time of filing the application the right to receive a certificate in good standing as a funeral director, at no cost. A funeral director possessing such a certificate is currently entitled to renew his or her license, without payment of an additional renewal fee, upon subsequent employment at a recognized funeral establishment. Under current law, the business of funeral director must be conducted in a funeral establishment.

Clarify that an applicant for the renewal of a funeral director's license must also furnish proof of completion of at least 15 hours of continuing education during the two-year period immediately prior to the date of application for license renewal. Under current law, this requirement applies to the "previous 2-year licensure period."

Transition Period for Funeral Director's Licenses Granted or Last Renewed before July 1, 1995. Notwithstanding current law funeral director's license renewal provisions and continuing education requirements for credential holders who have not renewed a license within five years, direct the Funeral Examiners Examining Board to restore the license of any person possessing a certificate in good standing whose license was granted or last renewed before July 1, 1995, if the applicant does all of the following: (a) applies for license restoration on a form provided by the Department no later than the first day of the 12th month following the general effective date of the biennial budget act; (b) provides evidence to the satisfaction of the Board that the applicant has completed 15 hours of continuing education in courses approved by the Board during the two years immediately preceding the date of application; and (c) demonstrates competence as a funeral director to the satisfaction of the Board, including passing a written or oral examination or providing satisfactory written documentation of professional experience in another jurisdiction or of educational or other professional experience. The Board could not require an examination more stringent than that required on Wisconsin law for applicants for reciprocal licenses.

Transition Period for Funeral Director's Licenses Granted or Last Renewed on or after July 1, 1995. Notwithstanding current law funeral director's license renewal provisions and continuing education requirements for credential holders who have not renewed a license within five years, direct the Funeral Examiners Examining Board to restore the license of any person possessing a certificate in good standing whose license was granted or last renewed on or after July 1, 1995, if the applicant does all of the following: (a) applies for license restoration on a form provided by the Department no later than the first day of the 12th month following the general effective date of the biennial budget act; and (b) provides evidence to the satisfaction of the Board that the applicant has completed 15 hours of continuing education in courses approved by the Board during the two years immediately preceding the date of application.

Waiver of Fees. Provide that no applicant under the above transition provisions could be charged an examination fee or a late renewal fee by the Department.

REVENUE -- TAX ADMINISTRATION

116. STUDY ON PROMOTING ECONOMIC GROWTH

Require the Department conduct a study of options for restructuring shared revenue and tax incremental financing to encourage high-growth sectors of the economy and creation of high quality jobs in the Wisconsin. The study would have to include consideration of using 10% of the amount of shared revenue distributed to municipalities and counties to match local efforts to encourage high-quality jobs in the state. The Department would have to submit the report to the Secretary of Administration by January 1, 2003.

117. BIENNIAL LAND INFORMATION INTEGRATION PLAN

Eliminate the requirement that the Department submit to the Land Information Board a biennial plan to integrate land information. This provision would first apply to the report due on March 31, 2002.

REVENUE -- LOTTERY ADMINISTRATION

118. REQUIRE A COURT ORDER FOR MULTIPLE PAYEES OF A LOTTERY PRIZE

Provide that, if the holder of a single winning lottery ticket is more than one person and the total prize is equal to or greater than $1,000, those persons would be required to petition a circuit court for an order declaring each person's interest in the lottery prize. Require that the order include: (a) the name and social security number of each person whom the court determines has an interest in the lottery prize; and (b) the amount of each person's share of the lottery prize. After a court order has been issued, the lottery administrator would be required to pay to each person whom the court has determined has an interest in the lottery prize his or her share of the lottery prize as specified in the court order. Under current law, the lottery administrator is required to pay a prize to the holder of a winning lottery ticket, to a person

designated to receive the prize on behalf of a minor or, under a court order, to the estate of a deceased prize winner or a person to whom the lottery prize has been assigned

Require the lottery administrator to report the name, address and social security number or federal income tax number of each person paid a prize under the court order to the Department of Revenue (DOR) to determine whether the payee is delinquent in the payment of state taxes or, if applicable, in the court-ordered payment of child support, or has a debt owing to the state. Under current law, this requirement applies to a person winning a lottery prize, or a person assigned a lottery prize, equal to or greater than $1,000. DOR is required to make a determination of whether these prize winners are delinquent in making these payments and to certify these amounts, if any. The lottery administrator is required to withhold such certified amounts from the prize payments. Under the bill, the DOR and lottery administrator responsibilities in this area would also apply to persons specified in the court order as multiple payees.

Require the lottery administrator to report to the Department of Workforce Development (DWD) the name, address and social security number of each winner specified in the court order, if the prize is payable in installments, to ascertain whether the winner is obligated to provide child support, spousal support, maintenance or family support. Under current law, the lottery administrator is required to report this information to DWD for a person winning a lottery prize, or a person assigned a lottery prize, that is payable in installments. DWD must certify to the lottery administrator whether the winner is obligated to provide child support, spousal support, maintenance or family support and the amount required to be withheld from the lottery prize. The lottery administrator is required to withhold the certified amount from each payment made to the winner or assignee. Under the bill, the DWD and lottery administrator responsibilities in this area would also apply to persons specified in the court order. A technical correction relating to reporting the federal income tax number of a prize winner to DWD, if applicable, is required.

Include multiple payees under the current law provisions that require the lottery administrator to: (a) annually provide each clerk of circuit court a list of winners or assignees to be paid in installments since the date of the previous list, in order to ascertain whether the winner or assignee has failed to pay a required fine, assessment, surcharge or restitution payment; and (b) if a fine, assessment, surcharge or restitution payment is owed, withhold the amount of the judgment from the next installment payment.

119. FARMLAND PRESERVATION LIENS AND CONVERSION FEES

Prohibit the Department of Agriculture, Trade and Consumer Protection (DATCP) from relinquishing a farmland preservation agreement or releasing land from an agreement prior to termination of the agreement until the owner pays DATCP a fee of $50 per acre for the land that would no longer be covered by the agreement (except for certain cases for which no lien or payback is required under current law). Under the bill, owners with agreements that expire, or agreement holders who die or are certified by a physician to be totally and permanently disabled, who have not met the requirements of the agreement, although subject to a lien under current law, would not be subject to the $50 per acre payment.

Require the owner of the land to pay a fee of $60 for each acre of land rezoned out of exclusive agricultural zoning or granted a special exception or conditional use permit for a use that is not agricultural as a condition of approval of the rezone petition or special exception or conditional use permit. The per acre fee would be assessed on all farmland that is rezoned or granted a permit, regardless of whether a farmland preservation tax credit has ever been received for the land. Specify that the payments be made to the county or municipality that approves the rezone petition or special exception or conditional use permit for the land and that the county or municipality pay any amounts received to the state. Require the payment to be made by the county or municipality, instead of the landowner, if a rezoning occurs solely as a result of an action initiated by the county or municipality.

Delete the current law requirement that DATCP initiate the placement of a lien against farmland property when a farmland preservation or transition area agreement is relinquished or land is released from an agreement, land is rezoned out of exclusive agricultural zoning or land is granted a non-agricultural special exception or conditional use permit. Further, delete the current law provisions that require a payback of tax credits received, including interest for certain agreement holders, on the farmland property in order to satisfy the lien placed on the property.

Replace the statement on the farmland preservation agreement that a payback of credits with interest may be required if the agreement is relinquished with a statement indicating a payment to the state may be required. Delete other statutory references to liens placed on farmland under the farmland preservation program with references to the per acre payment requirement. Require the Land and Water Conservation Board to notify DATCP if it approves applications for the relinquishment of a farmland preservation agreement or the release of land from an agreement.

Under current law, any land relinquished or released from certain farmland preservation agreements or transition area agreements is subject to a lien for the total amount of all credits

received by all owners of such lands during the last 10 years that the land was eligible for such credits. In addition, owners must pay interest compounded annually on the credits received from the time the credits were received until the lien is paid. No lien may be filed or payback of credits required for land relinquished or released from an agreement under the following circumstances: (a) the farmland is subject to exclusive agricultural zoning; (b) the farmland preservation agreement expires and the owner has met all other requirements of the agreement; or (c) the owner of the land subject to the agreement dies or is certified by a physician to be totally and permanently disabled and all other requirements of the agreement have been met. For farmland subject to an exclusive agricultural zoning ordinance that is rezoned out of exclusive agricultural zoning or is granted a special exception or a conditional use permit for a non-agricultural purpose, the owner is subject to a lien equal to the amount of tax credits paid on the land, but no interest is assessed on that amount.

Delete the requirement that DATCP release any land subject to a farmland preservation agreement from that agreement if the owner of the land has, before December 31, 1988, obtained state, county or municipal licenses, permits or approvals, other than those required under the farmland preservation program, to develop the land as a concert park.

Repeal the statutory provisions relating to farmland preservation agreements that were entered into prior to September 30, 1982. Specify that the calculation of any farmland preservation tax credits involving these agreements reference the statutory provisions that existed in the 1999 statutes.

Specify that treatment of the provisions relating to the repeal of the requirement for the placement of a lien and the institution of a per acre payment requirement would first apply to land that is released or relinquished from a farmland preservation agreement or land that is rezoned out of exclusive agricultural zoning on the effective date of the bill.

SHARED REVENUE AND TAX RELIEF -- PROPERTY TAXATION

120. PROPERTY TAX EXEMPTION FOR REGIONAL PLANNING COMMISSIONS

Extend the current property tax exemption for property owned by local governments to property owned by regional planning commissions, effective with property assessed as of January 1, 2001. Authorize regional planning commissions to acquire and hold real property for public use and to convey and dispose of such property. The current exemption applies to property of counties, municipalities, school districts, technical college districts, public inland lake protection and rehabilitation districts, metropolitan sewerage districts, municipal water districts, local joint water authorities, family care districts and town sanitary districts.

Currently, there are nine regional planning commissions, eight serving multicounty areas and one serving Dane County. They are required to prepare comprehensive plans for the region, and they advise local governments on the planning and delivery of public services.

121. PAYMENT OF REFUNDS ON MANUFACTURING PROPERTY

Require DOA to reimburse municipalities for interest payments that municipalities paid in the previous biennium on refunds of property taxes on manufacturing property. Specify that the state would be obligated for interest that accrues up to the date that the tax appeals commission determines that a refund is due. Create a sum sufficient, GPR appropriation from which interest payments would be made.

Authorize municipalities to pay refunds of taxes on manufacturing property in five annual installments if the following three conditions are met: (a) the municipality's general operations tax levy for the year for which the taxes to be refunded are due is less than $100 million; (b) the refund is at least 0.0025% of the municipality's general operations tax levy for the year for which the taxes to be refunded are due; and (c) the refund is more than $10,000. Specify that each annual payment, except the last, would have to equal at least 20% of the sum of the refund and the interest on the refund, as calculated on the date of the claim. Exclude refunds on manufacturing property from the current provision that specifies a 0.8% per month interest rate on tax refunds, and instead, establish the interest rate for refunds on manufacturing property as the lesser of 10% per year or the average, annual discount interest rate determined by the last auction of six-month U.S. treasury bills prior to the date of filing the appeal or objection. Additional language may be needed to ensure that the interest rate is based on the lesser of 10% or the yield on treasury bills if the refund is a recovery of unlawful taxes (s. 74.35) or a claim on an excessive assessment (s. 74.37).

Specify that these provisions would first apply to refunds of taxes that were based on assessments as of January 1, 2001. As a result, the state would not incur any interest cost on manufacturing refunds during the 2001-03 biennium. Under current law, municipalities are required to pay refunds no later than January 31 of the year after the claim, if the taxpayer files the claim on or before November 1 following the date on which the appeal is decided. If the claim is filed after November 1, the claim must be paid by the second January 31 after the claim is filed.

122. SPECIAL CHARGES FOR MUNICIPAL SERVICES THAT ARE AVAILABLE

Modify current law provisions regarding special charges by deleting provisions that limit charges to "current" services and by permitting municipalities to impose charges for services that are available, regardless of whether the services are actually rendered, effective with charges imposed on the effective date of the bill. Specify that special charges may be imposed against any real property that is eligible to be served. Municipalities may impose special

charges to recover all or part of the cost of providing the following services: snow and ice removal; weed elimination; street sprinkling, oiling and tarring; repair of sidewalks, curbs and gutters; garbage and refuse disposal; recycling; stormwater management; tree care; removal and disposition of dead animals; and soil conservation work. In return for services, municipalities may impose special charges against real property located in the municipality and against real property located in adjacent municipalities, if approved through resolution by the governing body of the adjacent municipality. If special charges are not paid, they become delinquent and are a lien against the property on which they were imposed.

123. ASSIGNMENT OF TAX DEEDS ON BROWNFIELD PROPERTY

Authorize county boards to direct the clerk of the county to execute a tax deed to property if the taxes, interest and penalties on the property have not been paid within two years after the issuance of a tax certificate and if the following conditions have been met: (a) the county clerk advertises a list of properties subject to deed, compares that list to the tax certificates previously issued by the county and confirms that the list and the certificates are correct, as required under current law; (b) the governing body of the county provides written notice to the governing body of the municipality in which the property is located at least 15 days before the governing body of the county meets to consider approving execution of the tax deed; (c) the property is a brownfield, as defined under current law; (d) an environmental assessment of the property has been conducted and the results of that assessment are provided to DNR; and (e) the person to whom the tax deed is to be executed enters into an agreement with DNR to, pursuant to rules promulgated by DNR, investigate and clean up the property to the extent practicable, minimize the harmful effects from any hazardous substance, and maintain and monitor the property. Provide that the final condition be met only if the environmental assessment determines that the property is contaminated by the discharge, as defined under current law, (a technical change would be needed to insert this term) of a hazardous substance and the person agrees to accept the tax deed regardless of the contamination. Require the county clerk to follow current law procedures with regard to executing the deed to the person and recognizing valid and enforceable restrictions and covenants pertaining to the property. Authorize a person who accepts a tax deed under these provisions to commence an action to bar any former owner of the property, and anyone claiming under a former owner, from all right, title, interest or claim in the property under current law procedures. This provision would create a procedure for the execution of a tax deed for tax delinquent brownfield property similar to that used under current law for the assignment of a county's right to take judgment with respect to this type of property.

124. SALE OF TAX DELINQUENT BROWNFIELD PROPERTIES

Authorize counties to sell tax delinquent real property acquired by the county without using a competitive bidding process, if the following conditions are met: (a) the county provides written notice of the sale to the clerk of the municipality where the property is located

at least 15 days before the sale; (b) the property is contaminated by a hazardous substance, as defined under current law; (c) the property is a brownfield, as defined under current law; (d) an environmental assessment of the property has been conducted and the results of that assessment are provided to DNR; and (e) the purchaser of the property enters into an agreement with DNR to, pursuant to rules that the Department promulgates, investigate and clean up the property to the extent practicable, minimize any harmful effects from the hazardous substance, and maintain and monitor the property.

125. ENVIRONMENTAL REMEDIATION TAX INCREMENTAL FINANCING DISTRICTS

Make the following modifications to environmental remediation tax incremental financing (ER-TIF) districts. The modifications would first apply to districts for which a written remediation proposal is approved by a political subdivision's governing body on the effective date of the bill.

ER-TIF District. Define an ER-TIF district as a contiguous geographic area within a political subdivision that is defined and created by resolution of the governing body of the political subdivision that consists solely of whole units of property as are assessed for general property tax purposes, other than railroad rights-of-way, rivers or highways. Railroad rights-of-way, rivers or highways would be allowed to be included in a district only if they are continuously bounded on either side, or on both sides, by whole units of property that are assessed for general property tax purposes and are in the ER-TIF district. Specify that an ER-TIF district would not include any area identified as a wetland on a DNR wetland map. Further, clarify various statutory references relating to the real property that may be included in an ER-TIF district to include contiguous parcels, as is allowed under current law.

Resolution to Create a District. Require the governing body of the political subdivision that is creating an ER-TIF district to adopt a resolution that: (a) describes the boundaries of an ER-TIF district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included within the district; and (b) specifies a date that the district would be created. If the adoption of the resolution occurs during the period between January 2 and September 30, the date of creation would be the next preceding January 1. If the adoption of the resolution occurs during the period between October 1 and December 31, then the date of creation would be the next subsequent January 1. If the adoption of the resolution occurs on January 1, the district would be created as of that date.

Calculation of Tax Incremental Base and Increments. Include personal property located in an ER-TIF district in the calculation used in determining the environmental tax incremental base, tax increment and value increment of a district. This would treat these calculations the same as the calculations for basic TIF districts.

Specify that the tax incremental base would equal the certified aggregate, equalized property value on the January 1 preceding the date on which the district is created by a

resolution of the political subdivision. This would replace the current requirement that the tax incremental base includes the value that exists on the January 1 preceding the date on which DNR issues a certificate indicating that the environmental pollution on the property has been remediated.

Certification of the Tax Incremental Base. Require DOR to certify the tax incremental base of an ER-TIF district on or before December 31 of the year the district is created by resolution of a political subdivision, unless the district is created during the period between October 1 and December 31, in which case DOR would be required to certify the tax incremental base on or before December 31 of the following year. This would replace the requirement that DOR certify the tax incremental base on April 1 of the year following the year in which DNR certifies that the Department has approved the site investigation report that relates to the parcel or contiguous parcels.

Project Expenditures and Eligible Costs. Define project expenditures as the sum of eligible costs and all other costs incurred by a political subdivision in the creation and operation of an ER-TIF district. Allow a political subdivision to use an environmental remediation tax increment to pay only the costs of remediation of environmental pollution on contiguous parcels of property that are located within the district. Remove the payment of claims of holders of bonds or notes that have been issued to pay eligible costs as an allowable use of tax increments.

Termination of a District. Specify that an ER-TIF district would terminate when the earlier of the following occurs: (a) that time when the political subdivision has received aggregate tax increments with respect to the district in an amount equal to the aggregate of all eligible costs; (b) sixteen years after DOR certifies the tax incremental base; or (c) the political subdivision's legislative body, by resolution, dissolves the district, at which time the political subdivision would become liable for all unpaid eligible costs actually incurred which would not be paid from the separate accounting fund to which tax increments are deposited.

Require a political subdivision that creates an ER-TIF district to give DOR written notice within ten days of the termination of the district. If DOR receives a termination notice during the period from January 1 to May 15, the effective date of the notice would be the date the notice is received. If the notice is received during the period from May 16 to December 31, the effective date of the notice would be the first January 1 after the Department receives the notice.

Final Accounting and Report of District Costs and Increments. Require the political subdivision creating an ER-TIF district to provide DOR all of the following, on a form prescribed by the Department, not later than 180 days after the district terminates: (a) a final accounting of project expenditures that have been made for the district; (b) the final amount of eligible costs that have been paid for by the district; and (c) the total amount of tax increments that have been paid to the political subdivision.

Require the political subdivision to prepare a report on the status of all projects to remediate pollution that are funded from tax increments, including revenues and expenditures. The report would be required to be made available to the public no later than 12 months after the last expenditure is made or no later than 12 months after the last expenditure is allowed to be made (15 years after the district base is certified), whichever comes first. Specify that, unlike the annual report that is currently required, this report would be required to include an independent, certified audit of each project to determine if all financial transactions were made in a legal manner and to determine if each district complied with the ER-TIF statutes. Require that a copy of the report be sent out to all taxing jurisdictions overlying the district.

Property Tax Settlements. Provide ER-TIF districts the same treatment as basic TIF districts with regard to the January and February property tax settlements and property tax settlements made in subsequent months in municipalities adopting a payment schedule with three or more installments. In addition, require the taxation district treasurer to distribute from these settlements to a county the proportionate share of property taxes for each ER-TIF district created by that county.

Computer Aid Payments. Include ER-TIF districts as a taxing jurisdiction for the purposes of state computer aid payments and require that they meet the reporting requirements associated with such payments.

Economic Development Projects. Include land, plant or equipment used for facilities for the retail sale of goods or services to consumers that are located in an ER-TIF district as an economic development project for the purposes of the Wisconsin Housing and Economic Development Authority programs.

SHARED REVENUE AND TAX RELIEF -- LOCAL REVENUE OPTIONS

126. MUNICIPAL INDUSTRIAL REVENUE BONDS

Delete the requirement that municipal industrial revenue bonds may not be issued unless, prior to adoption of an initial resolution, a document that provides a good faith estimate of attorney fees that will be paid from bond proceeds is filed with the clerk of the municipality and the Department of Commerce.

STATE TREASURER

127. COLLEGE SAVINGS PROGRAM -- STATUTORY CHANGES

Modify current law regarding this program as follows: (a) change the definition of account owner from being an "individual" to being a "person" (this would allow charitable organizations, for instance, to be account owners under this program); (b) specify that the College Savings Board may (rather than shall as under current law) terminate a college savings account balance that remains unused 10 years after the anticipated initial year of the beneficiary's initial enrollment in college; and (c) add language under the tuition trust fund to provide that the fund includes revenues received from participants in the college savings program and distributions and fees received from the contracted vendor for the program.

128. COLLEGE TUITION AND EXPENSES PROGRAM -- STATUTORY CHANGES

Modify current law regarding this program as follows: (a) repeal the requirement that a beneficiary must be named when a college tuition and expenses contract is established under the program; and (b) specify that the State Treasurer may (rather than shall as under current law) terminate a college tuition and expenses contract if tuition units remain unused 10 years after the anticipated initial year of the beneficiary's initial enrollment in college.

129. STATUTORY CHANGES TO ESCHEATS STATUTES

Modify current statutory provisions relating to escheated property transferred to the unclaimed property program. Create an optional process for handling of a claim of interest for property with a value of $5,000 or less that has been transferred within 10 years of the date of the claim as follows: (a) allow a claimant to file a claim with the State Treasurer, instead of with the probate court, on a form as prescribed by the Treasurer; (b) require the Treasurer to act on any claim filed within 90 days of filing and provide that the Treasurer may refer any claim to the Attorney General for his or her advice on payment; (c) require the Treasurer to provide written notice to the claimant on disposition of the claim; (d) for any claim for which the Treasurer proposes to provide payment, require that the proposed payment must be approved by the Attorney General and that the Treasurer must obtain from the appropriate probate court an order requiring the Treasurer to pay the claim as proposed; and (e) specify that any person who is aggrieved by the Treasurer's decision or who has not received a decision on a claim within 90 days of the filing of the claim may bring action to establish the claim in the appropriate probate court. Also, make the following changes to the current process for claims filed in probate court: (a) provide that the State Treasurer rather than the Department of Revenue shall receive a copy of any claim relating to unclaimed property filed in probate court; (b) repeal the provisions that the court certify any claim award to DOA, that DOA audit the

claim, and that before awarding the claim, the court must issue an order determining the death tax due.

TECHNOLOGY FOR EDUCATIONAL ACHIEVEMENT IN WISCONSIN BOARD

130. TEACH BLOCK GRANT REPORTING REQUIREMENT

Require a school district receiving an educational technology block grant to submit an annual report to the Board concerning the specific purposes for which the school district uses the grant, which would first apply to grants made after the effective date of the bill.

TRANSPORTATION -- LOCAL TRANSPORTATION AID

131. MASS TRANSIT OPERATING ASSISTANCE -- BASIS FOR AID

Delete the current law provision that requires that annual mass transit operating assistance payments for Tier B and Tier C transit systems be based on actual operating costs from the second preceding calendar year. Rather, require that mass transit operating assistance payments for Tier B and Tier C transit systems be made based on projected expenses for the calendar year. Specify that these changes in the basis for aid would first apply to calendar year 2001 payments. This provision would return the basis for mass transit aid payments to that which existed prior to the passage of the 1999-01 biennial budget.

TRANSPORTATION -- LOCAL TRANSPORTATION PROJECTS

132. TRANSPORTATION ECONOMIC ASSISTANCE PROGRAM -- RENAME PROGRAM

Change the formal name of the program from the transportation facilities economic assistance and development program to the Tommy G. Thompson transportation economic assistance program.

133. CIVIL IMMUNITY FOR OWNERS OF PROPERTY CONTAINING A RAILS-WITH-TRAILS TRAIL

Specify that the owner of property upon which a rails-with-trails trail is located and any railroad that operates within the active rail corridor upon which a rails-with-trails trail is located is immune from civil liability for the death of, or injury to, an individual or damage to an individual's property resulting from the individual's use of a rails-with-trails trail as long as the death, injury or property damage was not caused by the willful or wanton acts or omissions of the property owner or railroad. Define "rails-with-trails trail" as a strip of land that is located partly or fully within an active rail corridor and is identified in an agreement entered into by a railroad that operates within that rail corridor and a person who is sponsoring and maintaining the strip of land for the use of individuals for purposes specified in the agreement. Specify that the immunity provided by this item would first apply to the use of a rails-with-trails trail on the effective date of the bill.

TRANSPORTATION -- STATE HIGHWAY PROGRAM

134. INTELLIGENT TRANSPORTATION SYSTEMS

Provide DOT with explicit authorization to fund the installation, maintenance and replacement of intelligent transportation systems. Define an intelligent transportation system as a specialized computer or other technical system, including roadway detector loops, closed circuit television, variable message signs, ramp meters or an integrated traffic signal system, that is used for the purpose of traffic flow measurement and management, congestion avoidance, incident management, travel time information or other similar purposes. DOT currently funds the installation, maintenance and replacement of such systems using existing, general statutory authority.

TRANSPORTATION -- MOTOR VEHICLES

135. SUSPENSION OF A JUVENILE'S DRIVER'S LICENSE FOR FAILURE TO PAY A NONDRIVING FORFEITURE

Authorize courts to suspend the operating privilege of juveniles if they fail to pay a forfeiture that is unrelated to the violator's operation of a vehicle, first applying to forfeitures imposed on the first day of the seventh month beginning after the effective date of the bill.

1999 Act 9 eliminated the authority of courts to suspend operating privileges solely for the failure to pay a forfeiture imposed for the violation of a local ordinance that is unrelated to the violator's operation of a vehicle. This provision would restore that authority with respect to juveniles who do not pay such forfeitures.

UNIVERSITY OF WISCONSIN SYSTEM

136. MODIFY MEMBERSHIP OF WSLH BOARD

Modify the membership of the WSLH Board by replacing the President of the UW System with the Chancellor of UW-Madison. The WSLH Board currently consists of the President of the UW System, the Secretary of the Department of Health and Family Services, the Secretary of the Department of Natural Resources, and the Secretary of the Department of Agriculture, Trade and Consumer Protection.

137. TUITION REMISSIONS FOR STATE SCIENCE FAIR CHAMPION

Provide full tuition and fee remissions for a resident undergraduate student enrolled in a bachelor's degree program who is designated the annual winner of the Wisconsin state science fair by the Wisconsin Science Education Foundation. The fee remission would remain in effect until the student earns enough credits to be awarded a bachelor's degree in a science-related field of study, except that a student must remain in good academic standing and could not receive a remission for more than five consecutive years. In addition, upon completion of the science related bachelor's degree, the winner would be eligible for an additional two years of graduate fee remissions for a science-related graduate program provided the student remains in good academic standing.

138. AUXILIARY RESERVE FUND REPORT FILING DATE

Modify the filing date from September 15 to October 15 of each fiscal year under the approval requirement with regard to the UW System's accumulation of auxiliary reserve funds. Under current law, the Board may not accumulate any auxiliary reserve funds from student fees in excess of 15% of the previous fiscal year's total revenues from student segregated fees and auxiliary operations funded from student fees unless the reserve funds are approved by the Secretary of Administration and the Joint Committee on Finance.

139. UW–MADISON MEDICAL SCHOOL STATUTORY LANGUAGE MODIFICATIONS

Update statutory language relating to the University of Wisconsin-Madison Medical School to eliminate obsolete language, and correctly reflect name changes and program administration. Changes include: (a) deleting a statutory provision which required the school to reduce enrollment by 10% from 1984-85 to 1987-88; (b) modifying language relating to the Medical School Transfer program to eliminate reference to the old title Center for Health Sciences and replace it with the University of Wisconsin Medical School, and eliminate references to a program involving a fifth year of clerkship following completion of four years of study at a foreign school; and (c) modifying the membership of the Council on Physicians Assistants to reflect the current title of the Vice Chancellor for Medical Affairs, rather than an old title referring to health sciences.

140. REPEAL MEDICAL EDUCATION REVIEW COMMITTEE

Repeal the Medical Education Review Committee. Under current law, the Committee is responsible for providing analysis and recommendations to the Governor and Legislature on medical education policy, in addition to encouraging the development of training programs and continuing education for physicians and other state health workers, and working on other issues related to medical education. However, the Committee has not met for many years.

VETERANS AFFAIRS -- TRUST FUND PROGRAMS AND VETERANS BENEFITS

141. VETERANS PERSONAL LOAN PROGRAM ADMINISTRATIVE RULES

Require the Department to promulgate rules that specify criteria for the determination of the amount of each loan made under the veterans personal loan program. The amount of any such loan would continue to be subject to the current law loan maximum of $15,000 and maximum term of 10 years. Under current law, the agency's rules governing the personal loan

program are required to address only the following matters: underwriting criteria, application procedures and any other provisions that the agency deems necessary for the efficient operation of the program. Clarify that the Department would determine the amount of each loan made by applying the criteria developed in the new rule.

Under current law, the Department may make a loan to a veteran, a veteran's unremarried spouse, or a deceased veteran's qualifying child for the purchase of: a mobile home; business or business property; the education of the veteran, a veteran's spouse or a veteran's children; payment of medical or funeral expenses; the consolidation of debt and a variety of other miscellaneous purposes. Additionally, loans may be made to a veteran's remarried spouse or to the parent of a deceased veteran's qualifying child for educational purposes.

WISCONSIN HEALTH AND EDUCATIONAL FACILITIES AUTHORITY

142. DEFINITION OF AN EDUCATIONAL FACILITY

Modify the definition of an "educational facility," as it relates to projects for which WHEFA may issue bonds, to delete the requirement that the facility be a post-secondary educational institution. Current law defines an "educational facility" as a regionally accredited, private, postsecondary educational institution that is considered tax exempt under section 501 (c) (3) of the Internal Revenue Code. Under this provision, facilities used for primary and second education would be eligible for WHEFA financing.

WHEFA is a quasi-public organization authorized to issue bonds to finance capital projects for health care institutions, independent colleges and universities and child care facilities.

143. AUTHORITY TO USE OUT-OF-STATE TRUST COMPANIES AND BANKS

Delete the current requirement that a trust company or bank with which WHEFA secures bonds issued by a trust agreement, trust indenture, indenture of mortgage or deed of trust be a trust company or bank in this state. Consequently, WHEFA could secure these bonds with trust companies or banks in other states.

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

144. DELETE OBSOLETE DROUGHT ASSISTANCE LOAN GUARANTEE PROGRAM

Repeal statutory language related to a drought assistance loan guarantee program. Under the program, WHEDA was provided $7.5 million GPR in 1988-89 to guarantee and subsidize drought assistance loans. Farmers were eligible for loan guarantees for up to five years, and applications were due June 30, 1989. Thus, no new loans can be made under the program, and there are no remaining guarantees outstanding.

WISCONSIN TECHNICAL COLLEGE SYSTEM

145. WTCS BOARD COURSE APPROVAL AND ELIMINATION

Modify the procedures for the approval and elimination of programs of study at technical college districts by granting the WTCS Board authority to direct technical college districts to adopt or eliminate programs of study. Under current law, the WTCS Board may not authorize or eliminate a program that has not been approved or eliminated by a district board.

146. MODIFICATION OF INCENTIVE GRANT PROGRAM

Allow the WTCS Board to award grants to districts for statewide marketing and promotion of the technical college system through the incentive grant program. Modify the incentive grant program to require WTCS Board review and approval of a district board's budget before an incentive grant is approved. The incentive grant program was created in 1985-86 and permits the WTCS Board to award supplemental funding to WTCS districts under five different grant categories (basic skill, emerging occupations, declining fiscal capacity, technology transfer and programs in juvenile correctional facilities). Base funding for the incentive grant program is set at $7,888,100 GPR annually.

147. APPLIED TECHNOLOGY CENTER CAPITAL EXPENDITURES

Extend the sunset date for expenditures on applied technology centers without referendum approval from January 1, 2002 to July 1, 2003. Under this provision, which was established in 1999 Act 9, each WTCS district may expend up to $5 million for the purchase or

construction of an applied technology center without a mandatory referendum provided the district board meets certain criteria and the project is approved by the WTCS Board.

148. ALTERNATIVE CERTIFICATION FOR INSTRUCTORS

Authorize district boards to employ an instructor who is not certified by the WTCS Board if the instructor holds a valid industry certification recognized by the WTCS Board. Currently, the WTCS Board must approve the qualifications of educational personnel for each program offered in district schools.

WORKFORCE DEVELOPMENT -- ECONOMIC SUPPORT AND CHILD CARE

149. W-2 COMMUNITY STEERING COMMITTEES

Modify provisions regarding community steering committees that advise W-2 agencies concerning employment and training activities. Under current law, each community steering committee must consist of at least 12 members, but not more than 15 members. The W-2 agencies are required to recommend members to the chief executive officer of each county served by the W-2 agency, who appoints all the members. The bill would eliminate the requirement that community steering committees have a specified number of members. In addition, current law requires community steering committees to coordinate with the council on workforce investment established under the federal Workforce Investment Act to ensure compatibility of purpose and no duplication of effort. The bill would require the community steering committees to also coordinate with a local workforce development board established under the Workforce Investment Act. Finally, the bill would require community steering committees to serve individuals who are receiving funding under the TANF block grant. These provisions would first apply to W-2 agency contracts entered into, extended, modified or renewed on the day after publication of the bill.

150. STUDY OF TRANSFERRING FOOD STAMP PROGRAM TO DHFS

Require DWD to study the impacts of transferring the food stamp program to DHFS, including the resources that would be transferred and the effects of transferring the CARES computer system and the local service delivery system. Require DWD to submit a report on the results of the study to the Governor by December 31, 2001.

151. DELETE OBSOLETE AFDC PROVISIONS

Delete obsolete provisions for the AFDC program, including the requirement that DWD establish merit-based personnel standards for AFDC staff or delegate this function to counties. The bill would also eliminate the requirement that the Department of Employment Relations conduct personnel examinations for AFDC staff and certify personnel lists. In addition, the bill would delete the provision requiring county departments of social services to comply with the merit-based personnel standards and selection process for AFDC staff and to perform any related record-keeping and reporting required by DWD. The bill would also delete a provision requiring county social service directors to be appointed subject to the requirements of the personnel standards and county personnel systems required for the AFDC program. In addition, the bill would eliminate provisions requiring the Personnel Commission to hear appeals under the personnel standards for AFDC staff and would delete the provision prohibiting county boards of supervisors from taking actions contrary to rules of DHFS under the personnel standards and county personnel systems for the AFDC program. The bill would also eliminate the ability of the Department of Employment Relations to use funding for conducting personnel examinations for AFDC staff.

WORKFORCE DEVELOPMENT -- CHILD SUPPORT

152. STUDY OF OPERATING THE CR&D SYSTEM WITH STATE STAFF

Require DWD to study what it would cost for the Department to operate the CR&D system, including the number of employees that would be needed. In the study, the Department would be required to differentiate between the cost of initially taking over operation of the system and the cost of operating the system annually thereafter and to compare those costs with the current and anticipated future costs of paying its designee (Lockheed Martin) to operate the system. A report, including conclusions and recommendations, would be due to the Secretary of DOA by December 31, 2001.